

ORDINANCE NO. 711

AN ORDINANCE AMENDING THE HAYDEN MUNICIPAL CODE BY ADOPTING AND REENACTING TITLE 7: THE HAYDEN DEVELOPMENT CODE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the authority for the Town of Hayden ("Town") to adopt regulations concerning the use, subdivision and development of real property is provided by Article XX of the Colorado Constitution and the Town of Hayden home rule charter; Article 65.1 Areas and Activities of State and Local Interest, Article 65.5 Notification of Surface Development, Article 67 Planned Unit Development Act of 1972, and Article 68 Vested Property Rights of Title 24, Colorado Revised Statutes; Article 20 Local Government Regulation of Land Use of Title 29, Colorado Revised Statutes; and Article 12 Annexation – Consolidation – Disconnection, Article 15 Exercise of Municipal Powers, Article 16 Ordinances – Penalties, Article 20 Taxation and Finance, Article 23 Planning and Zoning, and Article 25 Public Improvements of Title 31, Colorado Revised Statutes; and other applicable state and federal laws and regulation; and

WHEREAS, numerous work sessions were held by the Hayden Planning Commission ("Planning Commission") to inform, provide direction and review the proposed amendments to the Title 7, Hayden Development Code, Hayden Municipal Code (HDC); and

WHEREAS, in accordance with the requirements of the HDC, and after providing proper notice, a public hearing was held at a joint meeting of the Planning Commission and Hayden Town Council ("Council") on February 17, 2022 to solicit public comments, and after considering all public comments received and testimony and materials provided by Town staff the Planning Commission provided a recommendation to the Council to adopt and reenact the Hayden Development Code; and

WHEREAS, in accordance with the requirements of the HDC and in accordance with the requirements of the Hayden Home Rule Charter, after providing proper notice, the Hayden Town Council held a public hearing on February 17, 2022; and considered all public comments received and all testimony and materials provided by Town Staff prior to making a decision; and

WHEREAS, the Council specifically finds that the proposed revisions to the Hayden Development Code meet the review criteria in Section 7.16.040(c) of the Hayden Development Code; including:

1. The adoption and reenactment of the Hayden Development Code promotes the health, safety and general welfare of the Hayden community; and
2. The adoption and reenactment of the Hayden Development Code promotes or implements the goals and policies of the Hayden Forward Master Plan; and

3. The adoption and reenactment of the Hayden Development Code is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions.

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply the requirements of the Hayden Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Council, or any member of the Council, supports, approves, rejects, or denies this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO THE FOLLOWING:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 2. Enacted. Title 7: Hayden Development Code, attached to this Ordinance as Exhibit A is hereby adopted and enacted.

Section 3. Codification Amendments. The codifier of the Town's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Hayden Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance, immediately on final passing and adoption, shall be published in accordance with Section 3-3h of the Home Rule Charter and recorded in the Town Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Town Clerk. This Ordinance shall be in full force and effect on March 1, 2022 after its publication in accordance with Section 3-3h of the Hayden Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Hayden, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

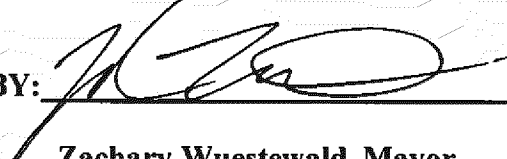
Section 7. Repealer. All bylaws, orders, ordinances, resolutions, and other instruments or parts thereof that are in conflict with this Ordinance are hereby repealed only to the extent of such conflict. This repealer shall not be construed to revive any bylaw, order, ordinance, resolution, or other instrument, or part thereof, heretofore repealed.

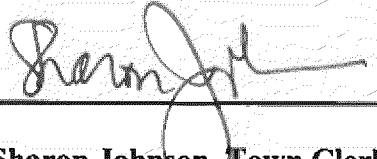
Section 8. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 9. Public Hearing on Ordinance No. 711. A public hearing on this Ordinance will be held on February 17, 2022 at the regular meeting of the Hayden Town Council beginning at 7:30 p.m. at the Hayden Town Hall, 178 West Jefferson Avenue, Hayden, Colorado.

[EXECUTION PAGE FOLLOWS]

INTRODUCED, READ AND ORDERED PUBLISHED PURSUANT TO SECTION 3-3(d) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ON FEBRUARY 3, 2022, and setting a public hearing for February 17, 2022 at the Council Chambers of the Hayden Town Hall, located at 178 West Jefferson Avenue, Hayden, Colorado.

BY: 
Zachary Wuestewald, Mayor

ATTEST: 
Sharon Johnson, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3-3(h) OF THE HAYDEN HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF HAYDEN, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF HAYDEN, ON THE 17TH DAY OF FEBRUARY, 2022.

BY: 
Zachary Wuestewald, Mayor

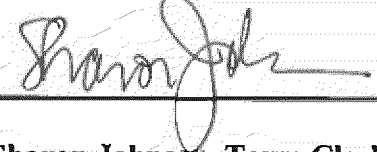
ATTEST: 
Sharon Johnson, Town Clerk



EXHIBIT A

HAYDEN DEVELOPMENT CODE

Effective March 1, 2022

By Ordinance No. 711

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7.04.010 Short Title.

This Title shall be known and may be cited as the "Town of Hayden Development Code," or the "Development Code."

7.04.020 Authority.

The Hayden Development Code is adopted and enacted pursuant to the authority provided by Article XX of the Colorado Constitution and the Town of Hayden Home Rule Charter; Article 65.1 Areas and Activities of State and Local Interest, Article 65.5 Notification of Surface Development, Article 67 Planned Unit Development Act of 1972 and Article 68 Vested Property Rights of Title 24, Colorado Revised Statutes; Article 20 Local Government Regulation of Land Use of Title 29, Colorado Revised Statutes; and Article 12 Annexation - Consolidation - Disconnection, Article 15 Exercise of Municipal Powers, Article 16 Ordinances - Penalties, Article 20 Taxation and Finance, Article 23 Planning and Zoning and Article 25 Public Improvements of Title 31, Colorado Revised Statutes; and other applicable state and federal laws and regulations. Whenever a section of the Colorado Revised Statutes cited in this Development Code is later amended or superseded, this Code shall be deemed amended to refer to the amended section or sections that most nearly corresponds to the superseded section.

7.04.030 Purposes.

The Development Code is intended to promote and achieve the following goals and purposes for the Hayden community, including the residents, property owners, business owners and visitors:

- (a) Divide the Town into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial,

residential and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;

- (b) Implement the goals and policies of the Master Plan and other applicable planning documents of the Town;
- (c) Comply with the purposes stated in state and federal regulations which authorize the regulations in this Development Code;
- (d) Avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, promote the proper arrangement of streets in relation to existing and planned streets, promote effective and economical mass transportation, and enhance effective, attractive and economical pedestrian and biking opportunities;
- (e) Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;
- (f) Provide a planned and orderly use of land, protection of the environment and preservation of viability, all to conserve the value of the investments of the people of the Hayden community and encourage a high quality of life and the most appropriate use of land throughout the municipality;
- (g) Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including but not limited to water, sewage, schools, libraries, police, parks, recreation, open space and medical facilities;
- (h) Minimize the risk of damage and injury to people, structures and public infrastructure created by wildfire, unstable slopes, rock fall, mudslides, geologic, flood danger and other natural hazards;
- (i) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;
- (j) Maintain the natural scenic beauty of the Hayden community in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the local economy and preserve property values;
- (k) Promote architectural design which is compatible, functional, practical and complimentary to Hayden's environment;
- (l) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of non-renewable natural resources and attain sustainability;
- (m) Achieve a diverse range of affordable and attainable housing which meets the housing needs created by jobs in the Town, provides a range of housing types and price points to serve a complete range of life stages and promotes a balanced, diverse and stable full time residential community which is balanced with the local economy;
- (n) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations; and
- (o) Promote the health, safety, morals and general welfare of the Hayden community.

7.04.040 Interpretation.

- (a) **Conflict of Laws.** In their interpretation and application, the provisions of this Development Code shall be held to be minimum requirements for the promotion of the public health, safety and welfare. Whenever the

requirements of this Development Code are more or less restrictive than the requirement of any other lawfully adopted rules, regulations or ordinances, including any applicable state or federal regulations, the more restrictive regulation or the regulation imposing the higher standards shall govern.

- (b) **Meanings and Intent.** All provisions, terms, phrases and expressions contained in this Development Code shall be construed according to the stated purposes in this Development Code. All provisions, terms, phrases and expressions contained in this Development Code shall be construed according to the general purposes set forth in Section 7.04.030 and the specific purpose statements set forth throughout this Development Code. The stated purpose in a specific Section of this Development Code shall control over the general purposes stated in Section 7.04.030 to the extent of any conflict in the stated purposes.
- (c) **Headings, Illustrations and Text.** In the event of a conflict or inconsistency between the text of this Development Code and any heading, caption, figure, illustration, table or map, the text shall control.
- (d) **Lists and Examples.** Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and shall not be interpreted as exhaustive lists of all possibilities or requirements.
- (e) **References to Other Regulations and Publications.** Whenever reference is made to a resolution, ordinance, statute, regulation or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation or document, unless otherwise specifically stated.
- (f) **Delegation of Authority.** Any act authorized by this Development Code to be carried out by a specific official of the Town may be carried out by a designee of such official. The Manager shall be authorized to carry out any act or designate any official to carry out any act authorized by this Development Code.
- (g) **Technical and Nontechnical Terms.** Words and phrases not otherwise defined in this Development Code shall be construed according to the common and approved usage of the language. Technical words and phrases not otherwise defined in Chapter 7.08 which may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning. The most recent version of Webster's Dictionary or the most recent version of Black's Law Dictionary may be used to interpret the definition of a word or phrase not defined in this Development Code.
- (h) **Public Officials and Agencies.** All public officials, bodies and agencies to which references are made are those of the Town of Hayden unless otherwise indicated.
- (i) **Mandatory and Discretionary Terms.** The words shall, must and will are always mandatory, and the words may, can, might and should are always discretionary.
- (j) **Conjunctions.** Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
 - (i) And indicates that all connected items, provisions or events shall apply; and
 - (ii) Or indicates that one (1) or more of the connected items, conditions, provisions or events shall apply.
- (k) **Tenses and Plurals.** Words used in one (1) tense (past, present or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural and the plural shall include the singular.
- (l) **Relationship to Third Party Agreement.** The Development Code is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of private agreements or restrictive covenants running with land. Where the Development Code imposes a greater restriction than that of any other law, contract or deed, the provisions of the Development Code shall control. Nothing in the Development Code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with the Development Code. In no case shall the Town be obligated to enforce the provisions of any easement, covenants or agreements between private parties.

- (m) **Authority of Manager to Interpret.** The Manager has authority to render an interpretation or usage of terms used in this Development Code as applied to a specific development applications or activity or where such term or phrase is not defined in this Development Code. The Manager shall use the rules of interpretation set forth in this Section and shall render interpretations in writing upon request. The written interpretation of the Manager may be appealed to the Board of Adjustment in accordance with Section 7.16.110, Appeal and Variance.
- (n) Any use of property which violates local, state or federal law is prohibited.

7.04.050 Computation of Time.

This Section shall apply to the requirements and procedures of this Title 7. The time within which an act is required to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, an official holiday recognized by the State of Colorado or any official holiday recognized by the Town, the last day shall be deemed to be the next day which is not a Saturday, Sunday or official holiday. The failure of the Town to perform any act within the timeframe required for the Town shall not be deemed to be an automatic approval by the Town or a waiver of the Town's ability to review an application for development for compliance with the applicable standards and regulations.

The following time-related words shall have the following meaning:

- (a) Day means a calendar day unless working day is specified.
- (b) Month means a calendar month.
- (c) Week means seven (7) calendar days.
- (d) Year means a calendar year, unless a fiscal year is indicated.

7.04.060 Applicability.

- (a) **Jurisdiction.** The Development Code shall be effective throughout the Town's corporate boundaries. The Town's planning jurisdiction includes all land within the Town and the land within three (3) miles of the Town's corporate boundaries to the extent of the Town's major street plan. A copy of a map showing the boundaries of the Town and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town offices.
- (b) **Permit Requirement.** The Development Code establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the Town's Master Plan, with the regulations and standards adopted in this Development Code or with such regulations as are applicable in this Municipal Code or state or federal law. Issuance of a building permit is required prior to the commencement of any development in the Town, including grading property or erecting, constructing, reconstructing, altering, moving or changing the use of any building, structure or improvement within the Town. A permit shall not be issued until the plans for development of the proposed erection, construction, reconstruction, alteration, moving, use or grading fully conform to the land development regulations in effect at the time of submitting the permit.

7.04.070 Applicability to Public Agencies.

The provisions of the Development Code shall apply to all public bodies, districts and agencies of the federal, state, county and municipal governments to the extent permitted by law.

7.04.080 Exemption for Essential Services.

The normal maintenance by public utilities, special districts or municipal departments of underground, surface or overhead electrical, television, steam, gas, fuel, water, sewer or storm drainage transmission, collection or distribution systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar equipment in connection therewith are exempted from the application of this Development Code. Not included in the exemption granted by this Section is the construction or alteration by public utilities or special districts of any aboveground systems or improvements within the right-of-way pursuant to applicable provisions of the Hayden Municipal Code. Business or customer service offices and maintenance yards of such public utilities, special districts or municipal departments are not included in the exemption granted by this Section.

7.04.090 Relationship to Master Plan.

- (a) **Implementation.** It is the intention of the Town that the Development Code implements the planning policies adopted in the Master Plan (including related documents as all may be amended or updated from time to time as defined in Chapter 7.08) for the Town and its extraterritorial planning area. This Development Code and any amendment to it may not be challenged on the basis of any alleged nonconformity with the Master Plan.
- (b) **Binding.** Pursuant to Section 31-23-206, C.R.S., the Master Plan as defined in this Development Code shall be binding except as provided herein. Compliance or consistency with the Master Plan shall be a criterion for review of development applications as set forth in this Development Code. Persons other than the applicant shall not have any legal right or claim to challenge a determination by the Town of compliance or consistency with the Master Plan. Any language in the Master Plan document which states that any provision, guideline or policy is mandatory shall be subject to this Section. This Section shall apply and supersede any language contained in the Master Plan documents concerning interpretation and application of any Master Plan document. In all cases where compliance or consistency with the Master Plan is a criteria for review, the reviewing entity may determine that strict compliance with the Master Plan is not required under the following circumstances:
 - (i) The development application is consistent with the general goals and intent of the Master Plan, taking into consideration the unique circumstances of the property, market conditions and the current needs of the community;
 - (ii) Strict compliance with multiple provisions of the Master Plan is not practical; and
 - (iii) The procedures for amending the Master Plan are not beneficial as applied to the development application for the purpose of promoting public involvement, community planning, updating the Master Plan or adopting or clarifying the precedence of a decision.
- (c) **Prior Amendment Required.** An amendment to the Master Plan will be required prior to any approval of a rezoning, PUD, subdivision or annexation approval where a development proposal would be in substantial conflict with the Master Plan. A substantial conflict shall be deemed to exist when a rezoning, PUD, subdivision or annexation proposal is not consistent with the Future Land Use plan in the Master Plan. A substantial conflict may be found to exist when a rezoning, PUD, subdivision or annexation proposal is found to conflict with other goals and policies of the Master Plan.

7.04.100 Fees.

- (a) **Fees.** Reasonable fees sufficient to cover the costs of administration, peer review by professionals qualified in fields relevant to development applications, inspection, publication of notice and similar matters will be charged to applicants for all development applications. The Council may adopt, amend and update a schedule of fees by resolution. The Manager may require additional fees when deemed necessary and reasonable based on the nature and character of the review required or where unusual issues are presented which may require additional

review. Fees for independent consultants and studies may include an additional fifteen percent (15%) charge for Town staff administration oversight, costs and supplies.

- (b) **Pass-Through Accounts.** All development applications shall be treated as pass-through accounts, unless otherwise stated in the schedule of fees adopted by the Council through a resolution, whereby the applicant shall be liable for all costs of review incurred by the Town. Additional review fees may be requested if the initial amount designated in the Fee Schedule is not sufficient for the cost of application review. Subsequent deposits may be required when eighty-five percent (85%) of deposits are expended. Upon request by the applicant, the Town shall provide an estimate of the cost for review of a development application. The Manager may withhold processing and review of a development application where the applicant has not provided sufficient fees to continue or complete the application review. The Town shall return the balance of any unused application review fees when the application process is complete.
- (c) **Payment in Full Required.** All development applications shall be required to pay the Town in full for all costs incurred for the review of a development application. Payment in full to the Town of the costs incurred for development application review shall be a condition to each and every development application. The failure to pay the Town in full for the costs incurred for development application review within thirty-five (35) days of final approval shall render any such approval null and void. The Manager may waive this requirement, reduce fees or extend the time period for payment.
- (d) **Interest on Delinquent Fees.** Development application review fees and charges which are not paid within thirty (30) days of sending an invoice shall be deemed to be past due and shall bear interest at the rate of one percent (1%) per month.
- (e) **Lien for Delinquent Fees.** All delinquent development application review fees and charges, along with such interest that has accrued thereon, shall be subject to a lien on the property which the development application concerned, and all such delinquent charges may be certified to the Routt County Treasurer and may be collected and paid over to the Town by the Routt County Treasurer in the same manner as taxes are as authorized by Title 31, C.R.S.

7.04.110 Application to Developments in Process.

All development applications initiated on and after [insert effective date] shall be reviewed pursuant to the review process and standards set forth in this Development Code as amended and adopted [insert date] and effective on [insert effective date]. All development applications submitted for review and deemed completed by the Manager prior to that date, shall be reviewed pursuant to the process and under the criteria set for in applicable portions of the Development Code in force prior to that date. Such prior regulations are continued in force and effect for that limited purpose only. Upon approval or denial of all such remaining applications, the prior regulations shall be deemed replaced by these amended and restated Development Code provisions. Any applicant who has the right to be reviewed under such prior regulations as provided in this section may nonetheless choose instead to be review under the regulations effective on [insert effective date].

7.04.120 Nonconforming Uses and Structures.

- (a) **Intent.** Within the districts established by this Development Code or amendments thereto that may be adopted, there may exist lots, structures and uses of land and structures, which were lawfully established before this Development Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Development Code or by future amendment to the Development Code. It is the intent of this Section to permit these nonconformities to continue until they are removed, abandoned or more than fifty percent (50%) destroyed. It is the further intent of this Section that nonconforming structures and uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as provided in this Section.

- (b) **Uses of Land.** Where, at the time of the passage of this Development Code or amendment thereof, lawful use of land existed which would not be permitted by the regulations imposed by this Development Code, the use may be continued so long as it remains otherwise lawful, provided:
- (i) No such nonconforming use shall be enlarged or increased, nor extended to occupy greater area of land than was occupied at the effective date of adoption or amendment of this Development Code;
 - (ii) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Development Code;
 - (iii) Any such nonconforming use of land which ceases for any reason for a period of one (1) year shall be deemed abandoned, then any subsequent use of such land shall conform to the regulations specified by this Development Code for the district in which such land is located; and
 - (iv) No additional structure, not conforming to the requirements of this Development Code, shall be erected in connection with such nonconforming use of land.
- (c) **Structures.** Where a lawful structure existed at the effective date of adoption or amendment of the Development Code that could not be built under the terms of this Development Code by reason of restrictions on area, lot coverage, height, location on the lot or other requirements concerning the structure, such structure may continue to exist so long as it remains otherwise lawful, subject to the following provisions:
- (i) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
 - (ii) Should fifty percent (50%) or more of such nonconforming structures or nonconforming portion of a structure be destroyed by fire or other disaster, it shall not be reconstructed except in conformity with the provisions of this Development Code unless a permit for repair or reconstruction of a damaged nonconforming structure is issued pursuant to Subsection (d) below;
 - (iii) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after having been moved;
 - (iv) Additions or alterations to a nonconforming structure which meet the requirements of the Development Code shall not be prohibited; and
 - (v) Additions or alterations to a nonconforming structure in the Town Center zone district shall not be required to comply with building orientation, minimum setbacks or building entry requirements when compliance with such requirements is determined by the Town to not be practical or feasible.
- (d) **Repair or Reconstruction of Nonconforming Structures.** When compliance with the requirements of the Development Code may result in a hardship or burden, the owner of a nonconforming structure which is damaged by fire or other disaster by more than fifty percent (50%) of its replacement cost may apply to the Planning and Zoning Commission (Planning Commission) for a permit to repair or reconstruct the nonconforming structure. The decision of the Planning Commission may be appealed to the Council in accordance with Section 7.16.160. The Planning Commission shall use the criteria set forth in this Section to review an application to repair or reconstruct a damaged nonconforming structure:
- (i) The damage to the nonconforming structure was not caused by the intentional act of criminal conduct of the owner of the nonconforming structure or the owner's agent or representative;
 - (ii) The repair or reconstruction of the damaged nonconforming structure as proposed by the applicant will not result in a greater degree of nonconformity than existed immediately prior to the structure being damaged;
 - (iii) The repair or reconstruction of the damaged nonconforming structure as proposed by the applicant will be compatible and consistent with the existing development character in the immediate vicinity of the damaged structure;

- (iv) The damaged nonconforming structure has been brought into compliance with the requirements of the Development Code to the maximum extent practical; and
 - (v) The continuation of the nonconformity would not threaten the health or safety of the Hayden community, would not present risk of damage or injury to property or persons and would not materially or adversely affect property values.
- (e) **Uses of Structures or of Structures and Premises in Combination.** If lawful use involving individual structures or of structures and premises in combination existed at the effective date of adoption or amendment of the Development Code that would not be allowed in the district under the terms of this Development Code, that use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (i) No existing structure devoted to a use not permitted by this Development Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
 - (ii) Any nonconforming use may not be extended throughout any parts of a building, unless such building was manifestly arranged or designed for such use at the time of adoption or amendment of the Development Code, but no such use shall be extended to occupy any land outside such building;
 - (iii) Any structure or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district and the nonconforming use may not thereafter be resumed;
 - (iv) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of one (1) year, the structure or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
 - (v) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this Subsection, is defined as loss of fifty percent (50%) or more or of substantial damage to the structure.
- (f) **Lot Reduction - Prohibition Against Establishing New Nonconforming Uses.**
- (i) No lot or parcel of land, nor any interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part, so as to create a new nonconforming use, to avoid, circumvent or subvert any provision of this Development Code or so as to leave remaining any lot or width or area below the requirements for a legal building site as described in this Development Code; nor shall any lot or portion of a lot required for a legal building site under the provisions of this Development Code be used as a portion of a lot required as a site for another structure.
 - (ii) No building permit shall be issued for any lot or parcel of land which has been transferred, conveyed, sold, subdivided or acquired in violation of this Section.

7.04.130 Severability.

If any court of competent jurisdiction invalidates any provision of the Development Code, then such judgment shall not affect the validity and continued enforcement of any other provision of the Development Code. If any court of competent jurisdiction invalidates the application of any provision of the Development Code, then such judgment shall not affect the application of that provision to any other building, structure or use not specifically included in that judgment. If any court of competent jurisdiction invalidates any condition attached to the approval of an application for development approval, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

7.04.140 **Save Harmless Clause.**

An applicant agrees to save the Town, its officers, employees and agents harmless from any and all costs, damages and liabilities that may occur or be claimed to occur by reason of any work performed as a result of any development approval granted by the Town.

7.04.150 **Disclaimer of Liability.**

This Development Code shall not be construed as imposing upon the Town or any official or employee of the Town any liability or responsibility for damages of any kind to any person by reason of inspection authorized in the Development Code or failure to inspect or by reason of issuance of an application approval or building permit or by reason of pursuing or failing to pursue an action for injunctive relief.

7.04.160 **Violations.**

- (a) **Compliance Required.** It is unlawful for any person to commence or any property owner or lessee to allow any development activity or subdivide land within the entire area of the Town without having first complied with the provisions of the Development Code. In the territory subject to subdivision jurisdiction beyond the municipal limits, it is unlawful for any person to subdivide land without having conformed with the major street plan of the Town. "
- (b) **Permit or Approval Based on Materially False Information.** Any building permit or approval authorized by the Development Code that is issued in reliance upon any materially false statement in the development application or in supporting documents or oral statements is void from the beginning and shall be revoked.
- (c) **Transfer or Sale of Interest Prior to Final Subdivision Approval.** It is unlawful for any person to transfer or sell or agree to sell any lot, tract, parcel, site, separate interest (including a leasehold interest), condominium interest, timeshare estate or any other division within a subdivision within the Town until such subdivision has been approved in writing by the Council and a plat thereof recorded in the office of the Routt County Clerk and Recorder. A written agreement to sell a lot, parcel or separate interest, condominium interest, timeshare estate or any other division within a subdivision within the Town prior to final subdivision approval shall not constitute a violation of this Section if the written agreement is expressly conditioned upon approval by the Council of the final subdivision plat and all related documents, the Preliminary Plan has been approved by the Council, the building or property to be subdivided has received design review approval (if applicable), the written agreement provides that the prospective buyer or purchaser is entitled to terminate the written agreement and is entitled to receive the full amount of any monies deposited and the form of the written agreement has received approval by the Town Attorney prior to using the form of such written agreement with a prospective purchaser or buyer.
- (d) **Public Nuisance.** Violations of this Development Code may coincide with actions or conditions that are identified as a public nuisance in Chapter 8.08 - Nuisances of this Municipal Code. When that is the case, the Manager may proceed under this Development Code, as well as the procedures of Chapter 8.08.
- (e) **Persons Liable.** The owner of property upon which any violation of this Development Code occurs shall be held responsible for the violation and be subject to the penalties and remedies provided in this Section.
- (f) **Violations Cumulative.** Any person violating any of the provisions of the Development Code shall be deemed to have committed a civil infraction for each and every day or portion of a day during which any infraction is committed, continued or permitted.

7.04.170 **Penalties.**

Any person violating any of the provisions of the Development Code shall be prosecuted as a civil infraction and shall be subject to a civil fine up to one thousand dollars (\$1,000.00) for each violation and each day that such violation

continues to exist shall constitute a separate offense and violation. Any remedies provided for in this Section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. The imposition of any penalty under this Development Code shall not preclude the Town or affected property owner from instituting any appropriate action or proceeding to require compliance with the provisions of this Development Code. All civil fines and penalties which are not paid within thirty (30) days, shall be subject to a lien on the property, and all such delinquent fines and penalties may be certified to the Routt County Treasurer and may be collected and paid over to the Town by the Routt County Treasurer in the same manner as taxes are as authorized by Title 31, C.R.S.

7.04.180 Costs and Attorneys' Fees.

Costs and attorneys' fees associated with enforcement and abatement shall be charged to the owner of property on which the violation has occurred. The cost of abating a violation of this Development Code shall include all direct and indirect costs of such abatement, plus the costs of collection and interest at the rate of one percent (1%) per month. Notice of the bill for abatement of the violation shall be mailed to the address of the property owner according to the Routt County Assessor's records by certified mail and shall be payable within thirty (30) calendar days from the receipt thereof. If all such costs are not paid within thirty (30) days of the notice, such costs may be made a lien on the property and certified to the Routt County Treasurer and may be collected and paid over to the Town by the Routt County Treasurer in the same manner as taxes are as authorized by Title 31, C.R.S.

7.04.190 Enforcement Authority and Procedures.

- (a) **Right of Entry.** Whenever necessary to make an inspection to enforce any of the provisions of the Development Code or whenever the Manager has reasonable cause to believe that there exists in any building or upon any premises any violation of the Development Code, the Manager may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Manager by the Development Code. If such building or premises are occupied, the Manager shall first present proper credentials and demand entry. If such building or premises are unoccupied, the Manager shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. The Manager may be accompanied by an officer of the Police Department or other law enforcement officer.
- (b) **Refusal of Entry.** Should entry be refused, the Manager shall have recourse to every remedy provided by law to secure entry. When the Manager shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Manager for the purpose of inspection and examination pursuant to the Development Code. Any person failing or refusing to permit entry shall be deemed to have committed a violation of this Section.
- (c) **Enforcement Procedures.** If the Manager finds that any provision of the Development Code is being violated, the following actions may be taken:

 - (i) **Nonemergency Violations.** In the case of violations of this Development Code that do not constitute an emergency or require immediate attention, written notice of the nature of the violation and required corrective action to be taken shall be given to the property owner, agent, occupant or to the applicant for any relevant permit. Notice shall be given in person, by certified U.S. Mail or by posting notice on the premises. The notice shall specify the Development Code provisions allegedly in violation and shall state that the individual has a period of thirty (30) days from the date of the notice of violation in which to correct the alleged violations before further enforcement action shall be taken. The notice shall also state any appeal and/or variance procedures available pursuant to this Development Code. In the event that the violation is not corrected and cured within thirty (30) days of the date of the notice of violation, the Manager shall refer the violation to the Town Attorney who shall promptly file a complaint in Municipal Court seeking penalties, injunction, abatement and such other remedies as may be appropriate.

- (ii) **Emergency Violations.** In the case of violations of this Development Code that constitute an emergency as a potential imminent threat to health or safety of the public, to public infrastructure, to damage to other properties or to soil erosion or water quality degradation, the Manager may use the enforcement powers available under this Development Code without prior notice, but shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant or to the applicant for any relevant permit. The Manager shall refer the violation to the Town Attorney who shall promptly file a complaint in Municipal Court seeking penalties, injunction, abatement and such other remedies as may be appropriate.
- (iii) **Extension of Time for Correction.** The Manager may grant an extension of the time to cure an alleged violation, up to a total of ninety (90) days, if the Manager finds that, due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within thirty (30) days.

7.04.200 **Enforcement Actions and Remedies.**

- (a) **Town Council.** The Council may refer violations to the Town Attorney, direct the Building Official to issue a stop work order, set a hearing for revocation of a permit or take such other enforcement action set forth in this Section.
- (b) **Penalties.** When a violation is referred to the Town Attorney by the Manager or the Council, the Town Attorney shall promptly file a complaint in Municipal Court or other court of competent jurisdiction seeking penalties, injunction, abatement and such other remedies as may be appropriate.
- (c) **Deny/Withhold Permits.** The Manager or Building Official may deny and withhold all permits, certificates or other forms of authorization to use or develop any land, structure or improvements thereon until the alleged violation related to such property, use or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation. The denial or withholding of a permit by the Manager or Building Official may be appealed to the Board of Adjustment as provided in Section 7.16.110, Appeal and Variance.
- (d) **Revocation of Permits.**
 - (i) **Referral by Manager.** The Manager may refer a request to revoke a development permit or building permit to the Council based upon violation of the Development Code.
 - (ii) **Hearing Required.** The Council may revoke any development permit, building permit or other authorization, after notice and a hearing. This Section shall not apply to the forfeiture of vested property rights.
 - (iii) **Notice of Hearing.** The hearing on the revocation of a development permit, building permit or other authorization shall be conducted during a regular or special meeting of the Council not less than seven (7) days nor more than forty-five (45) days from the date the notice of the hearing is given. Notice of hearing shall be deemed given to the owner, the owner's agent or other person to whom the development permit was issued, upon deposit of said notice in the U.S. Mail, by certified mail addressed to the last known address of said person or to the address of record according to the Routt County Assessor's records. Additional methods of service may also be utilized to give notice of the public hearing.
 - (iv) **Findings.** Following the hearing, the Council upon a finding of the following, may revoke any development permit, building permit or other authorization:
 - (1) There is a departure from the approved plans, specifications or conditions of approval; or
 - (2) There is a violation of any provision of the Development Code; or
 - (3) The development permit was obtained by false representation; or

- (4) The development permit was issued in error; or
- (5) Public improvements are not constructed in accordance with the approved Final Plat and supplemental information; or
- (6) There is a material failure in the security granted for the public improvements.
- (v) **Notice of Revocation.** Written notice of revocation shall be served upon the owner, the owner's agent, applicant or other person to whom the permit was issued by certified U.S. mail, or such notice may be posted in a prominent location at the place of the violation. No work or construction or use of the property shall proceed after service of the revocation notice.
- (e) **Stop Work Order.**
 - (i) Issuance of Stop Work Order. The Manager or Building Official may issue a written order to stop work on any property on which there is an uncorrected violation of either a provision of this Development Code or a provision of a development permit, building permit or other form of authorization. The stop work order shall specify the Development Code provisions allegedly in violation. Service of the order shall be given in person, by certified U.S. Mail or by posting notice on the premises. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct such violation or comply with the order. The notice shall also state any appeal and/or variance procedures available pursuant to this Development Code.
 - (ii) Timing/Notice. The stop work order may be issued in conjunction with a notice of violation or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the thirty (30) day period specified in Section 7.04.190(c)(1) above. The stop work order shall also indicate that failure to comply with the order may subject the violator to criminal liability as penalty for the violation.
- (f) **Abatement or Injunctive Relief.** The Manager, through the Town Attorney, may initiate injunction or abatement proceedings or other appropriate legal action in the District Court or other court of competent jurisdiction to abate, remove or enjoin such violation and to recover damages, costs and reasonable attorney's fees incurred in the abatement and removal of such violation. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this Development Code is a real, immediate and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject violation. The Town may also abate a public nuisance in accordance with the procedures set forth in Chapter 8.08 of this Municipal Code.
- (g) **Remedies Cumulative.** The remedies provided for violations of this Development Code shall be cumulative and in addition to any other remedy provided by law and may be exercised in any order.
- (h) **Compliance Agreement.** The Manager or the Town Attorney may enter into a compliance agreement with the following terms:
 - (i) The violation shall be defined and admitted; and
 - (ii) The manner and time frame in which the violation will be corrected shall be defined; and
 - (iii) The time frame for correction of the violation may not exceed six (6) months without approval by Council; and
 - (iv) Prosecution of the violations shall be deferred during the time frame for correction of violation stated in the compliance agreement; and
 - (v) The penalties shall be determined; and
 - (vi) The costs of enforcement shall be determined and payment of such costs shall be required; and

(vii) All enforcement actions and remedies may be pursued without waiver in the event that the violation is not corrected in accordance with the terms of the compliance agreement.

- (i) **Appeals of Enforcement Actions.** Appeals of any order, requirement, decision or determination made by an administrative official in the enforcement of this Development Code shall be made to the Board of Adjustment in accordance with the provisions of Section 7.16.110, Appeal and Variance.

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CHAPTER 7.08 DEFINITIONS

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7.28.010 "Access" means the place, means or way by which pedestrians and vehicles shall have adequate, usable and legal ingress and egress to property, use or parking space.

7.28.020 "Access grade" means the slope of a road, street, driveway or other means of access, as measured from the edge of asphalt along the centerline of the means of access.

7.28.030 "Accessory building, structure or use" means a subordinate building, structure, or use, which is:

- (i) Integrally related, subordinate and clearly incidental to an existing principal building, structure or use of the land;
- (ii) Located on the same lot (or on a contiguous lot in the same ownership) with the principal building, structure or use;
- (iii) Used only at the same time as the principal building, structure or use is active and operational; and
- (iv) Not detrimental or an alteration of the character of the area in which the building, structure or use is located.

An accessory building, structure or use shall include, but not be limited to, storage sheds and detached garages. Microwave dishes, antennas and similar devices which have a surface area of six (6) square feet or larger shall also be considered accessory structures and shall comply with requirements for accessory buildings and structures, including height requirements.

7.28.040 "Accessory dwelling unit" means an apartment integrated within a single-family dwelling, or located in a detached accessory building, such as carriage houses or agricultural-type outbuildings, located on the same lot as single-family dwellings.

7.28.050 "Adjacent" means meeting or touching at some point or separated from a lot or parcel by one (1) of the following: a street, alley or other right-of-way, lake, stream or open space.

7.28.060 "Adjacent property owner" means an owner of record of any estate, right or interest in real property abutting the subject property.

7.28.070 "Affordable housing project" means a development project in which: (1) at least seventy-five percent (75%) of the gross acreage to be developed under the plan is to be developed as residential dwelling units or mobile home park spaces; (2) at least ten percent (10%) of said dwelling units or spaces (the "affordable housing units") are to be available for rent or purchase on the terms described in the definitions of "affordable housing unit for rent" or "affordable housing unit for sale" (as applicable); (3) the construction of the dwelling units or spaces is to occur as part of the initial phase of the project and (i) prior to the construction of the market rate units or (ii) on a proportional basis, according to the same ratio as the number of affordable units bears to the number of the market rate units; and (4) the units will be required by binding legal instrument acceptable to the Town and duly recorded with the Routt County Clerk and Recorder, to be occupied by and affordable to low-income households for at least twenty (20) years.

7.28.080 "Affordable housing unit for rent" means a dwelling unit which is available for rent on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Routt County residents, as adjusted for family size, and paying less than thirty percent (30%) of their gross income for housing, including rent and utilities. The unit must be occupied by and be affordable to such low-income household(s) for a period of at least twenty (20) years.

7.28.090 "Affordable housing unit for sale" means a dwelling unit which is available for purchase on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Routt County residents, as adjusted for family size and paying less than thirty-eight percent (38%) of their gross income for housing, including principal, interest, taxes, insurance, utilities and homeowners' association fees. The unit

must be occupied by and affordable to such low-income household(s) for a period of at least twenty (20) years or permanently.

7.28.100"Agriculture" means farming, including plowing, tillage, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products; the grazing or raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of agricultural products as part of a recognized commercial enterprise.

7.28.110"Agricultural land" means land that is being used for agricultural activities.

7.28.120"Agritourism enterprise" means activities conducted on a working farm or ranch and offered to the public for the purpose of recreation, education or active involvement in the farm or ranch operations. This term includes, but is not limited to, farm tours, hayrides, cooking classes, and classes related to agricultural products or skills offered in conjunction with the above. An agritourism enterprise may include accommodations as an accessory use.

7.28.130"Alley" means a minor or secondary way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

7.28.140"Alteration" means any change, addition or modification in construction, occupancy or use or change in the exterior materials or design which is inconsistent with an approved design.

7.28.150"Amusement center" means an establishment providing completely enclosed recreation activities including, but not limited to bowling, roller skating or ice skating, billiards, swimming pools, motion picture theaters, and related amusements. Accessory uses may include the preparation, serving and sale of food and/or sale or rental of equipment related to the enclosed uses.

7.28.160"Amusement park" means an outdoor enterprise whose main purpose is to provide the general public with entertaining activity, where tickets are sold or fees collected at the activity. Commercial amusements include miniature golf courses, outdoor arcades, Ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.

7.28.170"Animal boarding, large" means the operation of an establishment in which domesticated animals other than household pets are housed, groomed, bred, boarded, trained or sold. This term shall not include the operation of a kennel.

7.28.180"Animal boarding, small" means a facility licensed to house dogs, cats or other household pets and/or where grooming, breeding, boarding, training or selling of animals is conducted as a business.

7.28.190"Animals, domestic" means common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.

7.28.200"Animals, food" means fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.

7.28.210"Animals, wild" means animals, such as wolves, tigers, lions and snakes that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.

7.28.220"Appeal" means a request by an applicant to the Board of Adjustment or Council for a review of an administrative interpretation of any provision of this chapter or a request for a variance.

7.28.230"Applicant" means an owner of real property, including mineral owners and lessees, or the owner's representative or owner of an option to acquire the property or portion thereof, who is authorized to represent and/or act upon any application or submittal.

7.28.240"Appurtenances" are the visible, functional or ornamental objects accessory to and part of a building.

7.28.250"Arcade" is a series of arches supported on piers or columns.

7.28.260"Area of lot" means the total horizontal area within the lot line boundaries of a lot.

- 7.28.270 "Awning"** means a roof-like cover of canvas or other material extending in front of a doorway or window or over a deck, to provide protection from the sun or rain.
- 7.28.280 "Balcony"** means that portion of a structure that is essentially open and outward from the main building with a floor and a railing, with or without a ceiling and over four (4) feet above the existing ground level.
- 7.28.290 "Bar or tavern"** means an establishment providing or dispensing fermented malt beverages, and/or malt, vinous or spirituous liquors and in which the sale of food products such as sandwiches or light snacks is secondary.
- 7.28.300 "Basement"** means the definition of "basement" as set forth in the most recent version of the International Building Code adopted by the Town.
- 7.28.310 "Beacon, revolving"** means a rotating source of light or electronic simulation of a revolving source of light.
- 7.28.320 "Bed and breakfast"** means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee.
- 7.28.330 "Bikeway"** means a path designed for use by bicyclists, which may be used by pedestrians.
- 7.28.340 "Blank wall"** means an exterior building wall with no openings and a single material and uniform texture on a single plane.
- 7.28.350 "Block"** means a unit of land or a group of lots, bounded by streets or by a combination of streets and public lands or other rights-of-way other than an alley, waterways or any barrier to the continuity of development or land which is designated as a block on any recorded subdivision plat.
- 7.28.360 "Board of Adjustment"** means a Board appointed by the Council whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of this Development Code as described in Section 7.16.110.
- 7.28.370 "Boarding and rooming house"** means a building or portion of which is used to accommodate, for compensation, four or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building. The word "compensation" shall include compensation in money, services or other things of value.
- 7.28.380 "Bollard"** means a pole used to close a road or path to vehicles above a certain width.
- 7.28.390 "Building"** means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is permanently affixed to the land and has one (1) or more floors and a roof.
- 7.28.400 "Building code(s)"** means the building codes adopted in Title 15, Hayden Municipal Code, as may be amended.
- 7.28.410 "Building frontage"** means the horizontal, linear dimension of that side of a building, which abuts a street, a parking area, a mall or other circulation area open to the public and has either a main window display or a primary entrance to the building.
- 7.28.420 "Building height"** is measured from the existing or finished grade (based on the average of the center of all walls), whichever is more restrictive, to the top of the parapet or highest roof beam (whichever is higher) on a flat or shed roof, to the top of the parapet or deckline (whichever is higher) on a mansard roof, or the average distance between the highest ridge and its eave on a gable, hip, or gambrel roof.
- 7.28.430 "Caliper"** means the American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at six (6) inches above the ground for trees up to and including four (4) inch caliper size and as measured at twelve (12) inches above the ground for larger sizes.
- 7.28.440 "Cash-in-lieu or fee-in-lieu"** means that the payment of funds to the Town instead of the dedication of a real property interest when the Council determines that the dedication of real property interest is not practical or

as beneficial as payment of cash-in-lieu of land dedication. Payment of cash-in-lieu or fee-in-lieu shall comply with the following requirements unless otherwise provided for by this Development Code:

- (i) Payment shall be based on the fair market value of the entire property based on the per square foot value of the property with the requested development approval that requires dedication of land or cash-in-lieu.
- (ii) The value of the land shall be based upon an amount negotiated between the Town and the applicant taking into consideration sales of comparable properties. In the event that the Town and the applicant are not able to negotiate a mutually acceptable per square foot value for cash-in-lieu or fee-in-lieu of dedication of land, the applicant shall provide an appraisal to the Town at the applicant's cost for consideration by the Council. The Council may accept the applicant's proposed appraised value or may reject the applicant's proposed appraised value and commission an independent appraisal which shall be paid by the applicant. The Council shall then use appraised value as set forth by the appraisal commissioned by the Town.
- (iii) Combination of dedication and cash-in-lieu:
 - A. The applicant, at the option of the Council, may meet the dedication requirements through a combination of cash-in-lieu and land dedication in those cases where a portion of the dedication of land is not desired.
 - B. The value of the combination of both the land dedication and the cash-in-lieu of land shall not exceed the full market value of the total required dedication of sites and land areas.

7.28.450 "Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including mausoleums and mortuaries when operated in conjunction with and within the boundaries of, such cemetery.

7.28.460 "Childcare center" means a 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 under the age of sixteen (16) years 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 education 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 childcare home as defined in this Code. Child 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 so long as the school system is not also providing extended day services.

7.28.470 "Childcare home" means a facility for child care in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen (18) years who are not related to the head of such home. "Childcare home" may include infant-toddler child care homes, large child care homes, experienced provider child care homes and such other types of family child care homes designated by rules pursuant to C.R.S. § 26-6-106(2)(p).

7.28.480 "Church" means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

7.28.490 "Clerestory" means a portion of an interior rising above adjacent rooftops and having windows admitting daylight to the interior.

7.28.500 "Clinic" means a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities or operating rooms for major surgery.

7.28.510 "Clubs and lodges" means organizations of persons for special purposes or for the promulgation of sports, arts, literature, politics or other common goals, interests or activities, characterized by membership qualifications, dues or regular meetings, excluding clubs operated for profit and/or places of worship or assembly.

7.28.520 "Code" or "Development Code" means this Title 7, Hayden Development Code, of the Hayden Municipal Code, and amendments thereto.

7.28.530 "Commercial mineral deposit" mean oil, gas, gravel and other natural deposits that may be extracted from a property for economic benefit.

7.28.540 "Common element" means that portion of a condominium project held in common ownership by the owners or the condominium association or that portion of a project other than a condominium project which is not under the exclusive ownership or possession of the owners or occupants of a limited portion of the project.

7.28.550 "Common open space" means open space designed and intended primarily for the use or enjoyment of residents, occupants and owners of a specific property or development.

7.28.560 "Community facility" means a publicly owned facility or office building which is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole.

7.28.570 "Compatibility" means the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. "Compatibility" does not mean "the same as." Rather, "compatibility" refers to the sensitivity of development proposals in maintaining the character of existing development.

7.28.580 "Compressed gravel" means gravel that has ninety-five percent (95%) compaction at standard proctor densities at two percent (2%) \pm optimum moisture content.

7.28.590 "Condominium" means an individual airspace unit together with the interest in the common elements appurtenant to such unit.

7.28.600 "Connecting walkway" means:

- (i) Any street sidewalk; or
- (ii) Any walkway that directly connects a building entrance to the street sidewalk and connects other origins and destinations for pedestrians, including but not limited to commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

7.28.610 "Conservation easement" means an interest in real property that provides the owner of the easement the right to prohibit certain users or acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space or historical importance. See also Section 38-30.5-102, C.R.S.

7.28.620 "Construction" means work done on a job site that alters the existing conditions of a property.

7.28.630 "Construction staging plan" means a site plan submitted with final design and building permit plans showing, at the minimum: contractor parking, construction materials storage, limits of site disturbance, snow storage, refuse storage, sanitation facilities, project signage and construction trailer location, as applicable. The staging plan may be combined on the same plan sheet as the pollution control plan.

7.28.640 "Container" (also known as cargo or shipping container) means a truck trailer body that can be detached from the chassis for loading into a vessel, a rail car or stacked in a container depot. Containers may be ventilated, insulated, refrigerated, flat rack, vehicle rack, open top, bulk liquid or equipped with interior devices.

7.28.650 "Contiguous" (see definition for "adjacent".)

7.28.660 "Convenience retail store" means a retail store containing less than five thousand (5,000) square feet of gross floor area, which sells everyday goods and services which may include, without limitation, ready-to-eat food products, groceries, over-the-counter drugs and sundries.

7.28.670 "Convenience shopping center" means a shopping and service center located in a complex which is planned, developed and managed as a single unit, and located within and intended to primarily serve the consumer demands of adjacent employment areas and residences.

7.28.680 "Cornice" means a continuous, molded projection that crowns a wall or other construction, or divides it horizontally.

7.28.690 "Council" means the governing board of the Town of Hayden.

7.28.700 "Covenants" means private written agreements outlining regulations specific to a development. As private restrictions, they are not enforced by the Town. In the event of conflict between the covenants and this Code, this Code controls.

7.28.710 "Critical plant community" means vegetation which is essential to the conservation of threatened or endangered species and which may require special management considerations or protection.

7.28.720 "Crosswalk" means a pathway delineated on a street for pedestrians to cross.

7.28.730 "Cul-de-sac" means a local street with only one (1) outlet and having the other end for the reversal of traffic movement.

7.28.740 "Cultural assets" means buildings, locations and their features considered historically or socially significant to the community.

7.28.750 "Dedicated real property interest" means real property interest transferred to the Town by platting, title, deed or other legal method as approved by the Town Attorney.

7.28.760 "Dedication" means any grant by the owner of a right to use real property for the public in general, involving a transfer of property rights and an acceptance of the dedicated property by the appropriate public agency.

7.28.770 "Density, dwelling units per acre" means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within the development and calculated on a per-acre basis. Gross density is calculated by dividing the total number of units by the total acreage. Net density is calculated by dividing the total number of units by the total acreage minus all publicly dedicated land. For the purposes of calculating residential density, each accessory dwelling unit is equivalent to ½ of a dwelling unit.

7.28.780 "Design standard" means any standard that sets forth specific requirements for development improvements.

7.28.790 "Developer" means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

7.28.800 "Development" means the grading or clearing of land, the erection, construction or alteration of structures, the change of use of a property or the division of property to create two (2) or more separate ownership interests. "Development" shall also include:

- (i) Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land;
- (ii) Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
- (iii) Any change in use of land or a structure;

- (iv) Any alteration within thirty (30) feet of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
- (v) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, storage of equipment or materials, filling or excavation on a parcel of land;
- (vi) The demolition of a structure;
- (vii) The clearing of land as an adjunct of construction;
- (viii) The deposit of refuse, solid or liquid waste or fill on a parcel of land;
- (ix) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
- (x) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

"Development" shall not include:

- (xi) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of way;
- (xii) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic generating activity;
- (xiii) The maintenance, renewal, improvement or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
- (xiv) The use of any land for an agricultural activity;
- (xv) A change in the ownership or form of ownership of any parcel or structure; or
- (xvi) The creation or termination of rights of access, easements, covenants concerning development of land or other rights in land.

7.28.810 "District" means a section or sections of the incorporated area of the Town for which the regulations and provisions governing the use of building and land are uniform for each class of use permitted therein.

7.28.820 "Dormer" means a projecting structure built out from a sloping roof, usually with a vertical window or vent.

7.28.830 "Downtown" means the central business district of the Town. The boundary of Downtown is defined as being between 8th Street and Shelton Lane and as further described or delineated in the Master Plan.

7.28.840 "Drainage (system)" means a built system of pipes, channels or trenches or finished grades utilized to convey stormwater runoff.

7.28.850 "Drive aisle" means the lanes in a parking lot devoted to the passage of vehicles, as opposed to the parking stalls. The term "drive aisle" does not include lanes used only or primarily for drive-in customer service.

7.28.860 "Drive-in use" means an establishment which, 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.

7.28.870 "Driveway" means a constructed vehicular access serving one (1) or more properties and abutting a public or private road.

7.28.880 "Dwelling" means a building or portion thereof, used exclusively for residential occupancy.

- 7.28.890 "Dwelling, apartment"** means a room or suite of rooms in a multi-family structure that is arranged, designed, used or intended to be used as a housekeeping unit for a single family on a rental basis only.
- 7.28.900 "Dwelling, duplex"** means a building occupied by two (2) families living independently of each other.
- 7.28.910 "Dwelling, mixed use"** means an attached dwelling unit that contains a commercial component of not more than a specified percentage of the unit's gross floor area.
- 7.28.920 "Dwelling, multi-family"** means a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses and sorority houses and similar group accommodations.
- 7.28.930 "Dwelling, single-family"** means a building designed exclusively for occupancy by one (1) family, but not including a mobile home, otherwise provided herein.
- 7.28.940 "Dwelling, timeshare"** or "fractional fee ownership" means any parcel or lot of land or condominium unit, whether fee interest, leasehold or contractual right, whereby more than four (4) persons (ownership of an interest in joint tenancy by two (2) persons being considered one (1) person for the purpose of this section) are entitled to the use, occupancy or possession of such lot, parcel or unit according to a fixed or floating time schedule occurring periodically over any period of time (the use, occupancy or possession by each person being exclusive of that by the others). Timesharing unit includes, but is not limited to, a timeshare estate as defined in C.R.S. § 38-33-110.
- 7.28.950 "Dwelling unit"** means one (1) or more rooms and a single kitchen and at least one (1) bathroom designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes.
- 7.28.960 "Easement"** means an ownership interest in real property entitling the holder thereof to use, but not possession, of that real property for one (1) or more specific purposes, public or private.
- 7.28.970 "Eave"** means the overhanging lower edge of a roof.
- 7.28.980 "Engineer"** means a professional engineer licensed by the State of Colorado.
- 7.28.990 "Entertainment facilities and theaters"** mean a building or part of a building devoted to showing motion pictures or dramatic, musical or live performances.
- 7.28.1000 "Environmentally sensitive area"** means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities and ridge lines.
- 7.28.1010 "Exhaust pipe"** means a pipe used to guide waste exhaust gases away from a controlled combustion inside an engine or stove.
- 7.28.1020 "Exhaust vent"** means a continuous open passageway from the flue collar or draft hood of the appliance to the outside atmosphere for the purpose of removing flue gases.
- 7.28.1030 "Exotic animals"** means all animals raised or boarded that are not commonly classified as household pets or livestock, but are wild in nature and may have the ability to inflict bodily harm on humans, including snakes in excess of four (4) feet in length.
- 7.28.1040 "Family"** means an individual living alone or either of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:
- (i) Six (6) or fewer persons, excluding domestic workers and caretakers, living together in a dwelling unit; or
 - (ii) Any number of persons, excluding domestic workers and caretakers, living together who are related by blood, marriage, adoption, or guardianship and not more than one additional person;
 - (iii) Two (2) unrelated persons, excluding domestic workers and caretakers, living together with any children related to either of them by blood, marriage, adoption or guardianship and not more than one additional person;

- (iv) Six (6) or more persons (but not in excess of twelve (12) persons) that are not related by blood, marriage, adoption, or legal custody occupying a dwelling unit and living as a single housekeeping unit if the occupants are handicapped persons as defined in Title III of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by C.R.S. § 24-34-301. A household that includes six (6) or more persons identified above shall not be excluded from the definition of "family" by the residency in the household of additional necessary persons (and their families) employed in the care and supervision of such handicapped or disabled persons.
- 7.28.1050 "Farm animal"** means animals commonly raised or kept in an agricultural, rather than an urban, environment, including but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules.
- 7.28.1060 "Farm stand"** means a permanent or temporary stand for the sale of agricultural products.
- 7.28.1070 "Farmers' market"** means an outdoor marketplace for the distribution and sale of food products directly to consumers that are grown, made and offered for sale by the producing farmers and including unique products and goods created and sold by artisans, not to include mass produced products.
- 7.28.1080 "Feed lot"** means any tract of land or structure, pen or corral, wherein cattle, sheep, goats, emus, ostriches or swine are maintained in close quarters for the purpose of fattening such livestock.
- 7.28.1090 "Fence"** means enclosing framework for exterior areas, such as yards or gardens.
- 7.28.1100 "FHA"** means Federal Housing Administration.
- 7.28.1110 "Footprint"** means the outline of the total area which is covered by a building's perimeter at ground level.
- 7.28.1120 "Foster care home"** means a facility that is certified in accordance with County and State licensing rules or a child placement agency for child care in a place of residence of a family or person for the purpose of providing twenty-four-hour family care for a child under the age of eighteen (18) years who is not related to the head of such home, except in the case of relative care.
- 7.28.1130 "Frontage"** means the portion of a lot that fronts on a public or private street.
- 7.28.1140 "Functional open space"** means open space which is large enough to serve a practical purpose such as recreation, wildlife habitat or preservation of areas of agricultural, archeological or historical significance, and shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells or their appurtenances or other hazards to the public.
- 7.28.1150 "Funeral home"** means a building used for the preparation of deceased persons for burial or cremation, for the display of deceased persons and/or for ceremonies or services related thereto, including cremation and the storage of caskets, funeral urns, funeral vehicles and other funeral supplies.
- 7.28.1160 "Gable"** means the triangular portion of wall enclosing the end of a pitched roof from cornice or eaves to ridge.
- 7.28.1170 "Garage, parking"** means a building or portion thereof, either public or private, used only for parking of motor vehicles.
- 7.28.1180 "Gasoline station"** means any building, land area, premises or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication and minor repairs may be conducted. "Gasoline stations" shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting and body and fender work are conducted.
- 7.28.1190 "Geologic hazard"** means unstable or potentially unstable slopes, undermining, faulting, landslides, rock falls, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

- 7.28.1200** "Grade, existing" means the existing topography of a site prior to construction and may include natural or man-made conditions.
- 7.28.1210** "Grade, finished" means the final elevation of the ground surface after development.
- 7.28.1220** "Grade, natural" means the elevation of the ground surface in its natural state, before man-made alterations.
- 7.28.1230** "Grocery store, large" means a retail establishment which primarily sells food, but also may sell other convenience and household goods and which occupies a space greater than twenty-five thousand (25,000) square feet. The term "large grocery store" is synonymous with "supermarket."
- 7.28.1240** "Grocery store, small" means a retail establishment primarily selling food, as well as other convenience and household goods, which occupies a space of not more than twenty-five thousand (25,000) square feet.
- 7.28.1250** "Gross square footage (GSF)" means the total floor area designed for occupancy and use, including basements, mezzanines, stairways and upper floors, if any, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.
- 7.28.1260** "Group home" means a group home, that is:
- (i) Licensed by the State, for the exclusive use of not more than eight (8) intellectually or developmentally disabled, behaviorally or mentally ill individuals and the appropriate staff; or
 - (ii) An owner-occupied or nonprofit group home for the exclusive use of not more than eight (8) persons sixty (60) years of age or older and the appropriate staff; or
 - (iii) A home for the aged which is owned and operated by a person or organization as provided by 31-23-303, C.R.S., 1973.
- 7.28.1270** "Guest house" means an accessory structure which is physically detached from a single-family dwelling unit, is serviced through the same utility meters or connections as the principal use and is intended for temporary occupancy by visitors to the family residing in the single-family dwelling and has no cooking facilities.
- 7.28.1280** "Health club" means a facility that provides physical fitness services and/or equipment to its members.
- 7.28.1290** "Highest adjacent grade" means the highest natural elevation of the ground surface next to a proposed foundation wall of a structure prior to construction.
- 7.28.1300** "Highway corridor" means the area within one thousand five hundred (1,500) feet of the right-of-way of US Highway 40.
- 7.28.1310** "Hip roof" means a roof having sloping ends and sides meeting at an inclined projecting angle.
- 7.28.1320** "Historic district" means an area related by historical events or themes by visual continuity or character or by some other special feature that helps give it a unique historical identity. Such area may be designated a historic district, by local, state, or federal government and given official status and protection.
- 7.28.1330** "Historic site" means a structure or place of historical significance. Such structure or place may be designated a historic site by local, state, or federal government and given official status.
- 7.28.1340** "Home occupation" means an accessory use that consists of an occupation or business activity conducted inside a dwelling unit or its accessory structure which does not change the character of the dwelling unit or residential neighborhood in which it is located. To be valid a home occupation must meet the standards for home occupations in Chapter 7.28.

- 7.28.1350 "Homeowners association"** means the association set up to enforce covenants and maintain common areas and buildings for a development (also known as "owners association").
- 7.28.1360 "Hospital"** means an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training and central services facilities and staff offices.
- 7.28.1370 "Hotel, motel and lodge"** means a building, excluding bed and breakfast, containing any room or group of rooms used primarily for short-term transient lodging for a total continuous duration of less than thirty (30) days and which may include accessory uses, such as offices, laundry facilities, recreational facilities, lobbies, lounges, kitchen and dining facilities, meeting rooms, retail and other similar accessory uses commonly associated with hotels, motels and lodges.
- 7.28.1380 "Household pet"** means any animal that has been bred or raised to live in or about the habitation of humans and is dependent on people for food and shelter, not including animals defined as livestock, exotic animals or animals capable of inflicting substantial physical harm to humans. Includes dogs, domestic cats, canaries, parrots, hamsters, ferrets, pot-bellied pigs, guinea pigs and similar rodents, fish, reptiles, rabbits and such other species as would normally be sold at a local pet shop.
- 7.28.1390 "Human scale (pedestrian scale)"** means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.
- 7.28.1400 "Industrial, heavy"** means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials or a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous conditions. "Heavy industrial" shall also mean those uses engaged in the operation, parking and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments and transport terminals (truck terminals, public works yard, container storage).
- 7.28.1410 "Industrial, light"** means uses engaged in the manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, "light industrial" shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. "Light industrial" shall not include uses such as mining and extracting industries, petro-chemical industries, rubber refining, primary metal or related industries.
- 7.28.1420 "Infrastructure"** means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.
- 7.28.1430 "Integrate"** means to combine or coordinate separate elements (such as housing, recreation, jobs and shopping), so as to provide a harmonious, interrelated whole; organized or structured so that constituent parts function cooperatively.
- 7.28.1440 "Inter-neighborhood connection"** means connections (such as trails and roads) between neighborhoods.
- 7.28.1450 "Intra-neighborhood connection"** means connections (such as trails and roads) within the same neighborhood.
- 7.28.1460 "Irrigation ditch/canal"** means a channel or pipeline designed to transport irrigation water.
- 7.28.1470 "Junk"** means scrap brass, iron, lead, tin, zinc; all other scrap metals and the alloys; bones; rags; used cloth, rope, rubber, tinfoil, bottles; old or used machinery of any type; used tools; used appliances; used

lumber or crates; building materials; industrial equipment, fabrication of any material; used pipe or pipe fittings; used conduit or conduit fittings; used automobile parts; derelict vehicles, farm and heavy equipment construction vehicles; used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

7.28.1480 "Junkyard" means a building, structure or parcel of land, or portion thereof, used for collecting, displaying, storing, selling or reselling junk. Junkyards shall not include a recycling facility.

7.28.1490 "Kennel" means a facility licensed to house dogs, cats or other household pets and/or where grooming, breeding, boarding, training or selling of animals is conducted as business.

7.28.1500 "Kitchen" means a room or portion of a room devoted to the preparation or cooking of food for a person or a family living independently of any other family, which contains a sink and a stove, cooktop or oven powered by either natural gas, propane or 220-V electric hook-up.

7.28.1510 "Kitchen facility" means an area for cooking which includes a sink, refrigerator and fixture for cooking food.

7.28.1520 "Landowner" means any owner of a legal or equitable interest in real property and includes the heirs, successors and assigns of such ownership interests.

7.28.1530 "Landscape area" means that portion of a parcel of land with any combination of living plants, such as trees, shrubs, vines, ground cover, native grasses, flowers or lawns; natural features and nonliving ground cover, such as rock, stone and bark; and structural features, such as fountains, reflecting pools, art works, screen walls, fences and benches; but shall not include paved walkways or parking areas.

7.28.1540 "Lane" means a private street; or a portion of a roadway delineated for a single line of vehicles; or a secondary means of access to the abutting lots and not intended for general traffic circulation.

7.28.1550 "Livestock" means farm animals kept or raised for use, pleasure and/or profit.

7.28.1560 "Loading space" means an off-street space or berth on the same lot with a building or contiguous thereto, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

7.28.1570 "Long-term care facility" means any of the following:

- (i) "Convalescent center" means a health institution that is planned, organized, operated and maintained to offer facilities and services to inpatients requiring restorative care and treatment and that is either an integral patient care unit of a general hospital or a facility physically separated from, but maintaining an affiliation with, all services in a general hospital.
- (ii) "Intermediate health care facility" means a health-related institution planned, organized, operated and maintained to provide facilities and services which are supportive, restorative or preventive in nature, with related social care, to individuals who, because of a physical or mental condition or both, require care in an institutional environment but who do not have an illness, injury or disability for which regular medical care and twenty-four-hour-per-day nursing services are required.
- (iii) "Nursing care facility" means a health institution planned, organized, operated and maintained to provide facilities and health services with related social care to inpatients that require regular medical care and twenty-four-hour-per-day nursing services for illness, injury or disability. Each patient shall be under the care of a physician licensed to practice medicine in the State of Colorado. The nursing services shall be organized and maintained to provide twenty-four-hour per-day nursing services under the direction of a registered professional nurse employed full-time.

7.28.1580 "Lot" means a parcel of real property as shown with a separate and distinct number or letter on a plat recorded with the County Clerk and Recorder or when not so platted in a recorded subdivision, a parcel of real property abutting upon at least one (1) public street and held under separate ownership.

- 7.28.1590 **"Lot area"** means the total horizontal area within the lot lines of a lot, except that beneath the mean waterline of a body of water.
- 7.28.1600 **"Lot coverage"** means the ratio of the area of the site which is rendered impermeable by buildings compared to the total area of a site, excluding those rendered undevelopable, expressed as a percentage.
- 7.28.1610 **"Lot depth"** means the average distance between the front lot line and the rear lot line.
- 7.28.1620 **"Lot, double frontage"** means lots which front on one (1) public street and back on another.
- 7.28.1630 **"Lot, flag"** means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.
- 7.28.1640 **"Lot line, front"** means the property line dividing a lot from a street.
- 7.28.1650 **"Lot line, rear"** means the line opposite the front lot line.
- 7.28.1660 **"Lot line, side"** means any lot lines other than the front lot line or rear lot line.
- 7.28.1670 **"Lot size"** means the total horizontal area within the lot lines of a lot; synonymous with "lot area."
- 7.28.1680 **"Lot width"** means the distance parallel to the front lot line, measured at the front building setback line.
- 7.28.1690 **"Lot width on curving front lot line"** means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
- 7.28.1700 **"Machine shop"** means a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.
- 7.28.1710 **"Manager"** means the Town Manager of the Town of Hayden, or the Manager's designee.
- 7.28.1720 **"Manufactured home"** means a single-family dwelling which:
- (i) Is partially or entirely manufactured in a factory;
 - (ii) Is at least twenty-four (24) feet wide and thirty-six (36) feet long;
 - (iii) Is permanently affixed to and installed on an engineered permanent foundation;
 - (iv) Has a pitched or cosmetically equivalent roof and brick or wood exterior siding; and
 - (v) Complies with HUD or UBC standards, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.
- 7.28.1730 **"Manufacturing"** means a business which makes products by hand or by machinery.
- 7.28.1740 **"Marijuana establishment, medical"** means the use of a property, or portion thereof, for the cultivation, manufacture, storage, distribution, acquisition or sale of marijuana, including the use of property as a premises, as such term is defined by C.R.S. § 44-10-101, et seq, regardless of whether any such use described herein is for profit or not for profit.
- 7.28.1750 **"Marijuana establishment, retail"** means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, or a retail marijuana store, and includes further definition of such facilities and store as defined in Colorado Constitution Article XVIII Section 16(2)(i).
- 7.28.1760 **"Master plan"** means the Hayden Forward Master Plan and any other document adopted as a supplement or sub-area plan of the Hayden Forward Master Plan, as all such documents may be amended and adopted from time to time.
- 7.28.1770 **"Medical and dental office or clinic"** means an establishment operated by one or more duly licensed members of the human health care professions including, but not limited to, physicians, dentists,

chiropractors, psychiatrists and osteopaths, where patients are not lodged overnight but are admitted for outpatient examination and/or treatment.

- 7.28.1780 "Meeting place/place for public assembly"** means a hall, auditorium or other suitable room or rooms used for the purpose of conducting meetings of the membership and guests of the owner of such structure. The same shall not include commercial endeavors such as commercial movie picture houses, stage productions or the like.
- 7.28.1790 "Mini-storage warehouse"** means a building or a group of buildings containing separate, individual self-storage units divided from the floor to ceiling by walls, each with an independent entrance from the exterior of the building and that are designed to be rented or leased on a short-term basis to the general public for private storage or personal goods, materials and equipment.
- 7.28.1800 "Mixed use"** means the development of a lot tract or parcel of land, building or structure with two or more different uses including, but not limited to, residential, office, retail, public uses, personal service or entertainment uses, designed, planned and constructed as a unit.
- 7.28.1810 "Mixed use building"** means a building designed, planned and constructed as a unit, used partially for residential use and partly for commercial uses including, but not limited to, office, retail, public uses, personal service or entertainment uses.
- 7.28.1820 "Mobile home"** means a home that meets the standards for Mobile Home in Chapter 7.28. A mobile home does not include a factory-built home, manufactured home, or a recreational vehicle (RV).
- 7.28.1830 "Mobile home park"** means a property that provides a space for rent for the location and use of a mobile home.
- 7.28.1840 "Mobile home subdivision"** means the creation of two (2) or more lots for sale and ownership intended for the location and use of a mobile home.
- 7.28.1850 "Modified grid pattern"** means a grid pattern of streets and blocks adapted to the topography, unique natural features, environmental constraints and peripheral open space areas.
- 7.28.1860 "Mullion"** means a slender vertical member dividing the opening for a pair of double doors, sometimes removable to permit the passage of large objects, or also, a vertical member between the lights of a window.
- 7.28.1870 "Muntin"** means a rabbeted member for holding the edges of windowpanes within a sash.
- 7.28.1880 "Natural areas"** means floodplains and flood ways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens and any wetland area.
- 7.28.1890 "Neighborhood"** means a geographical area, the focus of which are residential uses, but also may include a mixture of activities that people need to live. A neighborhood may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and civic buildings.
- 7.28.1900 "Neighborhood commercial center"** means a shopping center which contains businesses that are intended to provide goods and services to the immediate neighborhood.
- 7.28.1910 "New construction"** means structures for which the start of construction or remodeling commenced on or after the effective date of this Code.
- 7.28.1920 "Nightclub"** means a bar or tavern containing more than one hundred (100) square feet of dance floor area.
- 7.28.1930 "Nonconforming building"** means a building or structure, or portion thereof, that does not conform to the regulations of this Code, but that was lawfully constructed under the regulations in force at the time of construction.

- 7.28.1940** **"Nonconforming use"** means a use that does not conform to the use regulations of this Code, but that was lawfully established under the regulations in force at the time the use was established and has been in regular use since that time.
- 7.28.1950** **"Noxious weeds"** means plants that are determine by the state of Colorado, Routt County, or the Town as a noxious weed or an alien plant that is aggressively invasive including but not limited to Leafy Spurge, Russian Knapweed, Spotted Knapweed, Diffuse Knapweed, Canada Thistle, Musk Thistle, Field Bindweed, Volunteer Rye, and Jointed Goatgrass.
- 7.28.1960** **"Nursing facility"** means a facility, or a distinct part of a facility, which meets the state nursing home licensing standards, is maintained primarily for the care and treatment of inpatients under the direction of a physician, and meets the requirements in federal regulations for certification as a qualified provider of nursing facility services. "Nursing facility" includes private, nonprofit, or proprietary intermediate nursing facilities for the mentally retarded or developmentally disabled.
- 7.28.1970** **"Off-street parking area"** means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, operation of motor vehicles, including driveways or access ways in and to such areas, but not including any outdoor storage area used principally as a "recreational vehicle, boat or truck storage" use, storage areas for landscaping and other bulk items or public streets and rights-of-way.
- 7.28.1980** **"Oil and gas operation"** means any structure, facility or activity which is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not necessarily limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.
- 7.28.1990** **"Oil or gas well"** means a well that produces oil or gas.
- 7.28.2000** **"Open space"** means any land or water area with its surface open to the sky, which serves specific uses of: providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form and protecting areas of agricultural, archeological or historical significance. "Open space" shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for off-street parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances or other hazards to the public.
- 7.28.2010** **"Outdoor storage"** means the keeping, in an unroofed area, of any equipment, goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours. Containers and semi-trailers may not be used for residential or storage uses except on construction sites.
- 7.28.2020** **"Outlot"** means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for merger with a later subdivision, or be conveyed to an owner's association.
- 7.28.2030** **"Outparcel"** means a parcel of land, generally located on the perimeter of a larger parcel of commercial land, that is subordinate to the larger parcel for access, parking and drainage purposes.
- 7.28.2040** **"Owner"** means the owner of a real property interest which is the subject of and which would be benefitted by a proposed development application. "Owner" shall include the fee title owner of record according to the office of the Routt County Assessor, by a legal title opinion or by a title insurance commitment. "Owner" shall also include other persons who, by partnership, joint venture, contractual relationship or other association, have an interest in the property or in the owner of record, or who have a contractual right to receive or obtain a defined portion of the property upon approval of a development application by the Town.
- 7.28.2050** **"Parapet"** means a low, protective wall at the edge of a terrace, balcony or roof, especially that part of an exterior wall, fire wall, or party wall that rises above the roof.
- 7.28.2060** **"Parcel"** means a tract or plot of land.

- 7.28.2070** **"Park"** means an area open to the general public and reserved for recreational, educational or scenic purposes.
- 7.28.2080** **"Parking, commercial"** means a parking lot, structure or garage that does not provide accessory parking to a specific building or use, is available for parking by the general public for a fee, may include reserved parking spaces and which is owned by a private, nongovernmental entity.
- 7.28.2090** **"Parking, public"** means a parking lot, structure or garage that is available for parking by the general public and which is owned by the Town or a quasi-governmental entity approved by the Town.
- 7.28.2100** **"Pedestrian scale (human scale)"** means the proportional relationship between the dimensions of a building or building element, street, outdoor space or streetscape element and the average dimensions of the human body, taking into account the perceptions and walking speed of a typical pedestrian.
- 7.28.2110** **"Person"** means a natural person, association, firm, limited liability company, partnership or corporation trust or other legal entity.
- 7.28.2120** **"Phase"** means a portion of property that is being platted and engineered for development at the same time.
- 7.28.2130** **"Pilaster"** means a rectangular support or pier treated architecturally as a column, with a base shaft and capital.
- 7.28.2140** **"Plan"** means the map and supporting documentation for a development which includes, but is not limited to, lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas and conservation areas in accordance with the requirements of this Code.
- 7.28.2150** **"Planned unit development (PUD)"** means an area of land, controlled by one (1) or more landowners, to be developed under unified control or a unified plan and is developed as a whole in a single development operation or programmed series of development stages. The development may include dwelling units, commercial, educational, recreational or industrial uses or any combination of the foregoing, the plan for which may not correspond in lot size, bulk or type of use, density, lot coverage, open space or other restrictions to the existing land use regulations.
- 7.28.2160** **"Planning Commission"** means the Planning Commission formed and appointed by the Council in accordance with Chapter 7.12 of the Development Code.
- 7.28.2170** **"Planning area boundary"** means the area surrounding the Town that the Town will consider annexing and developing. The planning area boundary is delineated on the Future Land Use Map in the Town Master Plan.
- 7.28.2180** **"Plat"** means a map of certain described land prepared in accordance with the requirements of this Development Code and Section 38-51-106, C.R.S., as an instrument for recording of real estate interests with the Routt County Clerk and Recorder.
- 7.28.2190** **"Prime farmland"** means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor and without intolerable soil erosion, as determined by the Secretary of Agriculture. "Prime farmland" includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage.
- 7.28.2200** **"Principal use"** means the main use of land or of a structure as distinguished from a subordinate or accessory use.
- 7.28.2210** **"Private property right"** means the rights of a property owner within the Town to use on their property within the legal parameters set forth in this Code and subject to applicable state, federal and

constitutional law. Nothing herein guarantees any private property rights to develop in a particular manner except pursuant to a valid vested right.

- 7.28.2220 "Professional office"** means an office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants and others who through training are qualified to perform services of a professional nature and where no storage or sale of merchandise exists, except as accessory to the professional services.
- 7.28.2230 "Property"** means all real property subject to land use regulation by the Town.
- 7.28.2240 "Property line"** means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.
- 7.28.2250 "Public area"** means streets, parks, open spaces and other property designated or described as for public use on a map or plat of the Town and fee title is vested in the Town, other public body or a special district as defined in C.R.S. § 32-1-103.
- 7.28.2260 "Public facility"** means those publicly-owned constructed facilities, including but not limited to transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities and publicly owned buildings or facilities.
- 7.28.2270 "Public hearing"** means a meeting called by a public body for which public notice has been given and which is held in a place at which the general public may attend to hear issues and to express their opinions.
- 7.28.2280 "Public improvement"** means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, landscaped open space, off-street parking area, lot improvement or other facility which benefits the public.
- 7.28.2290 "Public open space"** means an open space area conveyed or otherwise dedicated to the municipality, state or county or other public body for recreational or conservation uses.
- 7.28.2300 "Public use"** means uses which are owned by and operated for the public by the Town, County, state or federal governments or by school districts.
- 7.28.2310 "Public utility"** means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same or wireless telecommunication facilities.
- 7.28.2320 "Quasi-public"** means having the nature or characteristics of being public, but owned by a private, nongovernmental or not-for-profit entity.
- 7.28.2330 "Recreation facilities, indoor"** means an enclosed structure for recreational uses including but not limited to a recreation center, video game arcade, bowling alley, pool hall, dance hall, teen club, health club, shooting range, and paint ball facility.
- 7.28.2340 "Recreation facilities, outdoor"** means structures and/or areas for recreational activities including, but not limited to, batting cages, commercial athletic fields, miniature golf, Grand Prix miniature race cars, go-carts, and water pools/slides/pads, where part or all of such activities are outdoors.
- 7.28.2350 "Recreational vehicle (RV)"** means a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The following shall be considered a recreational vehicle:
- (i) "Camping trailer" or "tent trailer" means a folding structure, constructed of canvas plastic or similar water repellent material designed to be mounted on wheels and designed for travel and recreation.

- (ii) "Motorized camper, motor home, recreational conversion van" or "bus" means a recreational vehicle consisting of a portable, temporary dwelling to be used for travel, recreation and vacation uses and constructed as an integral part of a self-propelled vehicle.
 - (iii) "Pick-up camper" means a vehicle designed to be mounted on or loaded into a pick-up truck chassis for use as a temporary dwelling for travel and recreation.
 - (iv) "Tent" means a portable or temporary cover or shelter, with or without side panels, which is supported by poles and is made of canvas, plastic or similar materials.
 - (v) "Travel trailer" means a towed vehicle designed as a temporary dwelling for travel and recreation.
 - (vi) "Travel trailer, self-contained" means a trailer which can operate independently of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.
- 7.28.2360 "Recreational vehicle park"** means a parcel of land specifically developed for locating only recreational vehicles on lots on a short-term basis.
- 7.28.2370 "Recreational vehicle site"** means a plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle, tent or other individual camping unit on a temporary basis.
- 7.28.2380 "Recycling facility"** means a facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper, cardboard, clothing or other materials for recycling purposes conducted totally within an enclosed structure or container. This definition does not include processing except for "can banks" that crush cans as they are deposited.
- 7.28.2390 "Restaurant, drive-through"** means any establishment in which the principal business is the sale of foods and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.
- 7.28.2400 "Retail establishment, large"** means a retail establishment or any combination of retail establishments in a single building, occupying more than twenty-five thousand (25,000) gross square feet of floor area, except that no supermarket shall be deemed to be a large retail establishment.
- 7.28.2410 "Right-of-way"** means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of way established and shown on a Final Plat as to be separate and distinct from the lots or parcels adjoining such right-of-way. Rights- of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.
- 7.28.2420 "Roof gable"** means a roof sloping downward in two parts from a central ridge, so as to form a gable at each end.
- 7.28.2430 "Roof hip"** means a roof having sloping ends and sides meeting at an inclined projecting angle.
- 7.28.2440 "Salvage or wrecking yard"** means a place where motor vehicles and parts are wrecked, disassembled, repaired and resold, a place where secondhand goods including waste paper, bottles, automobile tires, clothing, other scrap materials and salvage are collected to be stored and a place where used lumber and used building materials are stored for sale or resale.
- 7.28.2450 "Sanitary facility"** means toilets, urinals, lavatories, showers, utility sinks and drinking fountains and the service buildings containing these units.

- 7.28.2460 "Sanitary waste station"** means a facility uses for removing and disposing of waste from self-contained camping vehicle sewage holding tanks.
- 7.28.2470 "School, private"** means a school that does not derive its support, in whole or in part, from moneys raised by a city, town, state, county or school district tax.
- 7.28.2480 "School, public"** means a free, tax-supported school that is controlled and operated by a school district of the State of Colorado.
- 7.28.2490 "Service building"** means a structure housing toilet, lavatory, bath, laundry, service sink and other sanitary facilities as may be required for an RV Park.
- 7.28.2500 "Setback"** means the required unoccupied open space between the nearest projection of a structure and the property line of the lot on which the structure is located, except on properties where the street extends beyond the property line. In these instances, the setback shall be measured from the edge of asphalt or walkway, whichever is more restrictive.
- 7.28.2510 "Setback, front yard"** means the distance a building or structure must be placed from the front lot line.
- 7.28.2520 "Setback, rear yard"** means the distance a building or structure must be placed from the rear lot line.
- 7.28.2530 "Setback, side yard"** means the distance a building or structure must be placed from the side lot line.
- 7.28.2540 "Sexually-oriented business"** means any use of property where the principal use, or a significant or substantial adjunct to another use of the property, is the sale, rental, display or other offering of live entertainment, dancing or services or goods (including printed or electronically recorded materials) which is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified anatomical areas" as the primary attraction to the premises, including, but not limited to:
- (i) "Sexually-oriented arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
 - (ii) "Sexually-oriented bookstore or sexually-oriented video store" means a place where books, magazines, motion pictures, photographs, periodicals, video or audio recordings, novelties and devices, or any of these things, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas, are sold or offered for sale to adults, and includes a place with only a portion or section of its area set aside for the display or sale of such materials to adults, except that any place, otherwise included within this definition, that derives not more than ten percent (10%) of its gross income from the sale of such material, shall be exempt from the provisions of this definition so long as such material is kept in a location where it is not visible and shall not be a self-service item for the customers of such place.
- "Sexually-oriented business" also includes:
- (iii) The opening or commencement of any sexually-oriented business as a new business;
 - (iv) The conversion of an existing business, whether or not a sexually-oriented business, to a sexually-oriented business;

- (v) The addition of any sexually-oriented business to any other existing sexually-oriented business;
- (vi) The relocation of any sexually-oriented business; or
- (vii) The continuation of a sexually-oriented business in existence on the effective date of the initial ordinance codified herein.

7.28.2550 "Sexually-oriented cabaret" means a nightclub, bar, restaurant, concert hall, auditorium or similar establishment which features:

- (i) Persons who appear in a state of nudity;
- (ii) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (iii) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

7.28.2560 "Sexually-oriented motel" means a hotel, motel or similar establishment which offers private rooms to the public and provides patrons live performances or closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

7.28.2570 "Sexually-oriented motion picture theater" means an establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

7.28.2580 "Sexually-oriented photo studio" means any establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas.

7.28.2590 "Sexually-oriented theater" means a theater, concert hall, auditorium or similar business which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

7.28.2600 "Shopping center" means a group of retail and service establishments located in a complex which is planned, developed, owned or managed as a unit, with off-street parking provided on the property.

7.28.2610 "Short-term rental" means a dwelling unit offered, provided, or operated as lodging accommodations to guests in exchange for remuneration for a period of less than thirty (30) consecutive days, and in which such accommodations are a person's primary residence and for which such person has received approval and licensure under the applicable provisions of the Hayden Municipal Code and this Development Code. This definition does not include offering use of one's property to another where no fee is charged and collected.

7.28.2620 "Sight distance triangle" means the area at an intersection to be kept free of shrubs, ground covers, berms, fences, structures or other materials or items greater than thirty (30) inches in height. Trees shall not be planted in the triangular area.

7.28.2630 "Sidewalk" means the hard surface path within or adjacent to the street right-of-way for use by pedestrians and/or bicyclists.

7.28.2640 "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located, but not including any flag, badge or insignia of any governmental agency or of any civic, charitable, religious or fraternal organization. "Signs" include identification signs (used to identify the premises), "for sale" signs, "for rent" signs, building and freestanding signs, and billboards.

7.28.2650 "Site plan" means a scaled drawing of a lot, showing the actual measurements, the size and location of any existing or proposed buildings, the location of the lot in relation to abutting streets and other details

such as parking areas, access points, landscaped area, building areas, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements.

7.28.2660 "Site specific development plan" means the Final Plat of a subdivision or final development plan of a PUD (planned unit development) when approved by the Council pursuant to all applicable sections of this Development Code.

7.28.2670 "Slope" means the relationship of elevation or vertical measure as divided by the horizontal measurement shall be expressed as a percentage as a means of quantifying the term "slope."

7.28.2680 "Specified anatomical areas" means any of the following:

- (i) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point above the top of the areola.
- (ii) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

7.28.2690 "Specified sexual activities" means acts, simulated acts, exhibitions, representations, depictions or descriptions of any of the following:

- (i) Human genitals in a state of sexual stimulation or arousal.
- (ii) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.
- (iii) Intrusion, however slight, of any object, any part of an animal's body or any part of a person's body into the genital or anal openings of any person's body or into the body of an animal.
- (iv) Cunnilingus, fellatio, anilingus, masturbation, bestiality, lewd exhibition of genitals or excretory function.
- (v) Flagellation, mutilation or torture for purposes of sexual arousal, gratification or abuse.

7.28.2700 "Split garages" means having at least two separate garages that are oriented in different directions.

7.28.2710 "Staff" means a full or part-time employee of the Town. "Staff" may also include professional firms and/or persons designated by the Town to act within a certain capacity including legal, engineering, planning, code enforcement, inspection and other professional fields.

7.28.2720 "Stage" means a raised floor or platform at least three (3) feet above the surrounding floor measured perpendicularly from the edge of the stage to the surrounding floor and at least thirty-six (36) square feet in area.

7.28.2730 "Street" means a public thoroughfare which affords the principal means of access to abutting property.

7.28.2740 "Street furniture" means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas and other outdoor spaces open to and used by the public.

7.28.2750 "Streetscape" means the distinguishing character of a particular street, within or adjacent to the public right-of-way, including paved materials and the adjacent space extending along both sides of a street, including landscaping, sidewalks, medians, lighting, street furniture and signage.

7.28.2760 "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.

7.28.2770 "Subdivision" means the platting of a lot or the division of a lot, tract or parcel of land into two (2) or more lots, plots, sites or airspace units.

- 7.28.2780** **"Subsidence"** means a local mass movement that involves the downward settling or sinking of the solid earth's surface. "Subsidence" may be due to natural geologic processes or man's activity such as coal mining.
- 7.28.2790** **"Survey"** means a land plat survey, stamped and signed by a registered Colorado Surveyor, showing topographic contour intervals depicted at an engineering scale.
- 7.28.2800** **"Swing-in garage"** means a garage that is oriented so that the garage doors are perpendicular to the street.
- 7.28.2810** **"Tandem garage"** means a garage that allows for the parking of one car in front of another.
- 7.28.2820** **"Tandem parking"** means parking two (2) cars in a driveway or parking space so that one (1) car is right in front of the other and the front car cannot move until the back car is moved.
- 7.28.2830** **"Title commitment"** means formal documentation from a title insurance company licensed by the State of Colorado listing the name of the owner of the property under consideration, the legal description of the property and any encumbrances of the property such as easements, rights-of-way, liens or mineral interests.
- 7.28.2840** **"Tourist facility"** means facilities used or intended to be used by visitors, and include tourist information kiosks, museums, gift shops, restrooms and to serve recreational activities and attractions.
- 7.28.2850** **"Town"** means the Town of Hayden, a municipal corporation of the State of Colorado. The Town may act through the Council or an official of the Town specifically authorized to perform the act.
- 7.28.2860** **"Transit facility"** means a place providing access to transit services including, but not limited to, bus stops, bus stations, interchanges on a highway used by one or more transit providers, ferry landings, train stations, shuttle terminals and bus rapid transit stops.
- 7.28.2870** **"Tree lawn"** means a strip of landscaping within the right-of-way, generally between the street and an adjacent sidewalk.
- 7.28.2880** **"Truck stop"** means an establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers or restaurant facilities primarily for the use of truck crews.
- 7.28.2890** **"Undermined"** means land that has been mined under the surface of the ground.
- 7.28.2900** **"Use"** means the purpose for which land or a building is designated, arranged or intended or for which it either is or may be occupied or maintained.
- 7.28.2910** **"USGS datum"** means United States Geological Survey basis of elevations.
- 7.28.2920** **"Vacation club"** means a partnership, corporation, limited liability company or other legal entity that is the record owner, as reflected in the records of the County Tax Assessor, of a building containing one (1) or more units which meet the definition of dwelling, timeshare, interval ownership or fractional fee ownership, and it permits possession of such dwelling by its members and/or guests of its members on a periodic basis in consideration of such member's fractional ownership interest in the building or property or membership in the entity.
- 7.28.2930** **"Vegetation"** means plants growing in a place, including but not limited to trees, shrubs, vines, grasses and groundcover.
- 7.28.2940** **"Vehicle rental facility"** means the rental of automobiles, light trucks, sport utility vehicles and vans including offices and the incidental parking and servicing of vehicles for rental or lease.
- 7.28.2950** **"Vehicle service and repair shop, major"** means an establishment primarily engaged in the repair or maintenance of commercial and heavy truck-oriented motor vehicles, trailers and similar large mechanical

equipment, including paint, body and fender and major engine and engine part overhaul, provided that it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

7.28.2960 "Vehicle service and repair shop, minor" means an establishment primarily engaged in the repair or maintenance of passenger and light truck-oriented motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups and transmission work, car washing, detailing, polishing or the like, provided that it is conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline or petroleum products.

7.28.2970 "Vehicle trip" means a single or one-way vehicle movement to or from a property or study area. "Vehicle trips" can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

7.28.2980 "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, pursuant to Section 7.16.160, Vested Property Right.

7.28.2990 "Veterinary hospital" means any facility which is maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases.

7.28.3000 "Veterinary facilities, small animal clinic" means any facility 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 and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

7.28.3010 "Veterinary facilities, large animal" means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment or prevention of animal diseases in food animals, equines, and similar livestock and may include holding pens, treatment rooms, stalls, trailer parking and similar facilities necessary to manage and treat large animals.

7.28.3020 "Walkable" means a distance of one-quarter (1/4) mile or within a five- to ten-minute walk.

7.28.3030 "Walkway" means:

- (i) A right-of-way or easement dedicated to public use that is not within a street right-of way, to facilitate pedestrian access through a property by means of a hard surface path.
- (ii) Any portion of a parking area restricted to the exclusive use of pedestrian travel.

7.28.3040 "Walkway, connecting" means:

- (i) Any street sidewalk; or
- (ii) Any walkway that directly connects a building entrance(s) to a sidewalk adjoining a street sidewalk, and connects other origins and destinations for pedestrians, including but not limited to commercial establishments, schools, parks, dwellings, work places and transit stops, without requiring pedestrians to walk across parking lots or driveways, around buildings or following parking lot outlines which are not aligned to a logical route.

7.28.3050 "Warehouse and distribution" means the storage, wholesaling, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms, including incidental retail sales, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.

7.28.3060 "Warehousing" means a business which stores or stocks merchandise or commodities.

7.28.3070 "Wetland" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

- 7.28.3080 "Wireless telecommunication equipment"** means any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication facility, but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. "Wireless telecommunication equipment" also includes a ground-mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.
- 7.28.3090 "Wireless telecommunication facility"** means any freestanding facility, building, pole, tower or structure used to provide only wireless telecommunication services and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services. This definition does not include telecommunications equipment that is clearly accessory to a Permitted Use-by-Right or permitted use.
- 7.28.3100 "Wireless telecommunication service"** means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless telecommunication, personal communication services or cellular telephone.
- 7.28.3110 "Workshop and custom small industry"** means a facility wherein goods are produced or repaired by hand, using hand tools or small-scale equipment, including small engine repair, furniture making and restoring, upholstering, restoration of antiques and other art objects, or other similar uses.
- 7.28.3120 "Yard"** means that portion of the open area on a lot extending open and unobstructed except for landscaping or as otherwise provided in this Code from the ground upward from a lot line for a depth or width specified by the regulations for the zone district in which the lot is located.
- 7.28.3130 "Yard, front"** means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.
- 7.28.3140 "Yard, rear"** means a yard extending across the full width of the lot between the rear lot line and the nearest line or point of the building.
- 7.28.3150 "Yard, side"** means a yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.
- 7.28.3160 "Zone district"** means a zone district of the Town as established in Chapter 7.20 of this Code, unless the term is used in a context that clearly indicates that the term is meant to include both the zone districts of the Town and the zone districts of an adjoining governmental jurisdiction, also referred to as "zoning district."
- 7.28.3170 "Zoning Map"** means the official zoning map adopted by the Town by ordinance, as may be amended.

CHAPTER 7.12 – DEVELOPMENT APPLICATION REVIEW AUTHORITY

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7.12.010 Purpose.

The purpose of this Chapter 7.12 is to define the delegation of authority and responsibilities for review of development applications.

7.12.020 Review Authority.

Table 7.16-1, Review Process Chart, Chapter 7.16, summarizes the development application procedures in the Development Code and identifies the bodies that have review and decision-making authority for each procedure. Approvals may be granted by the designated reviewing authority provided all applicable requirements of the Development Code have been met.

7.12.030 Town Council.

In addition to other authority granted by charter, ordinance or state law, the Council shall have the following functions and duties related to the Development Code:

- (a) Application review and decision-making authority as defined in Table 7.16-1, Review Process Chart;
- (b) Negotiation and approval of development, public improvement, subdivision and similar agreements; and
- (c) The authority to render a final decision which may be subject to any legal challenge, whether directly or by an appeal of a decision by the Manager, Planning Commission, Historic Commission or other commission, committee or agency on all land use and development application decisions pursuant to this Development Code.

7.12.040 Planning Commission.

- (a) **Establishment and Purpose.** There is hereby established the Hayden Planning Commission ("Planning Commission"). The purposes of the Planning Commission are as follows:
 - i) To implement the goals and policies of the Master Plan; and
 - ii) To implement the purposes set out in the Development Code.

- (b) **Duties.** The Planning Commission shall have the following functions and duties:
- i) Review development applications, amendments to the Master Plan and amendments to this Development Code, provide recommendations to the Council and render decisions as such authority is indicated in this Chapter 7.12;
 - ii) Upon request and direction by the Council, make and recommend plans for the physical development of the Town, including any areas outside its boundaries, subject to the approval of the legislative or governing body having jurisdiction thereof;
 - iii) Upon request and direction of the Council, conduct research, prepare studies, review other matters which are related to the present conditions and future growth of the Town, and provide comments and recommendations thereon to the Council; and
 - iv) Review and make recommendations to the Council about the design of proposed development, with due regard for design standards of this Development Code and other design criteria and guidelines adopted by the Town, code text amendments that address design review procedures and criteria and any design review guidelines for the Town relating to bulk and design regulations to be imposed or that establish design standards for specific uses, types of uses, parking standards, streetscapes or other similar items.
- (c) **Membership and Qualifications.** The Planning Commission shall be composed of five (5) members and two (2) alternate members who shall be registered electors of and reside in Hayden, who shall be appointed by Council, and who shall hold no other municipal office of the Town of Hayden, except that one (1) such member (and not more than (1)) may be a member of the Board of Adjustment.
- (d) **Term.** The term of each appointed member shall be six (6) years or until their successor takes office.
- (e) **Quorum.** Three (3) members or alternate members of the Planning Commission shall constitute a quorum for the transaction of business, but in the absence of a quorum, a lesser number shall adjourn any meeting to a later time or date. In the absence of all members, any staff member shall adjourn any meeting to a later time or date. The alternate members will be allowed to sit with the Planning Commission and participate in the discussion at all times. If any regular members are absent, the Chairperson shall identify which alternate member or members, Alternate 1 or Alternate 2 if they are present, that shall be allowed to vote as a regular member or members.
- (f) **Vacancies.** A vacancy on the Planning Commission shall occur whenever a member of the Planning Commission is removed by the Council, dies, becomes incapacitated and unable to perform the required duties for a period of ninety (90) days, resigns, ceases to be a qualified member or is convicted of a felony. In the event a vacancy occurs, a new member shall be appointed in accordance with 7.12.040(c) and such appointed member shall serve the remaining term of the position.
- (g) **Removal from Office.** A member of the Planning Commission may be removed for inefficiency, neglect of duty, malfeasance in office, misconduct, conduct unbecoming of a Town official, violation of the Town's code of ethics, or more than two (2) unexcused absences within a twelve-month period. Prior to removal, Council shall conduct a hearing and shall provide written notice to the Planning Commission member stating the grounds for removal at least three (3) days prior to the hearing.

- (h) **Officers.** The Commission shall appoint its own chairperson from among the members and shall create and fill such other of its offices as it may determine. The Chairperson shall be the presiding officer of its meeting. The term of the Chairperson shall be one year, with eligibility for re-appointment by the Planning Commission. In the absence of the Chairperson, the members present shall appoint a member to serve as acting chair at the meeting if the office of Vice Chairperson is not created and filled or the Vice Chairperson is also absent.
- (i) **Compensation.** Members of the Planning Commission shall serve with compensation at a rate established annually by the Council and be reimbursed for all authorized personal expenses incurred while performing duties as a Planning Commission member.
- (j) **Staff.** The Manager shall serve as the staff of the Planning Commission and shall provide for the service of a recording secretary who shall act in the capacity of secretary for the Planning Commission to receive applications and other material for consideration for the Planning Commission.
- (k) **Rules and Regulations.** The Planning Commission shall operate in accordance with its own rules of procedure as provided for in Section 11-2 of the Town Charter. The rules shall be filed with the Town Clerk and maintained in the records of the Town and shall be subject to public inspection. The Planning Commission may provide for certain variances, exceptions and exemptions from the requirements of its rules and regulations.
- (l) **Records.** The Planning Commission shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.
- (m) **Meetings.** The Planning Commission shall meet in accordance with the rules of procedure governing the Planning Commission and otherwise upon the call of the Chairperson. All meetings shall be held at the offices of the Town, unless otherwise specified, with adequate notice given to all interested parties.
- (n) **Agenda.** The Planning Commission may schedule the review of a development application on the next available agenda when the next meeting agenda is full and will likely result in an overly long meeting.
- (o) **Authority to Retain Consultants.** The Planning Commission is authorized to retain the services of one (1) or more consultants, provided that funds have been appropriated by the Town for said purpose or paid as part of the application fee by the applicant, to advise and assist the Planning Commission in performing the functions prescribed in this Section. The consultants may be retained to advise the Planning Commission on a single project, on a number of projects or on a continuing basis.

7.12.050 Manager.

The Manager is authorized and directed to do the following:

- (a) Review applications, provide recommendations and render administrative decisions as indicated in this Title 7;
- (b) Establish application submittal requirements, including content and quantities of materials to be submitted;

- (c) Render interpretations of the Development Code;
- (d) Enforce all provisions of the Development Code, for which purpose the Manager shall have the powers of a law enforcement officer; and
- (e) Delegate any duty set forth in this Development Code to another Town official when determined appropriate and efficient by the Manager.

7.12.060 Board of Adjustment.

- (a) **Purpose.** The Board of Adjustment shall hear and decide requests for a variance from the requirements of this Development Code. The Board of Adjustments shall also perform such other duties as may be set forth in this Development Code.
- (b) **Membership.**
 - i) The membership of the Board of Adjustment must consist of five (5) residents of the municipality, appointed by the Council. Their terms of office are three (3) years, and must be fixed so that the terms of office expire in different years. Appointments to fill vacancies are to be made only for the unexpired portion of the term. The Council may remove any member of the Board of Adjustment for cause upon written charges and after a public hearing.
 - ii) The Board of Adjustment shall elect from its own membership a Chairperson and Vice-Chairperson, who shall serve annual terms and who may succeed themselves. For the conduct of any hearing or the taking of any action, a quorum of three (3) members is required. An affirmative majority vote shall be necessary to authorize any action of the Board of Adjustment.

7.12.070 Historic Commission.

- (a) **Establishment.** There is hereby established the Historic Commission ("Historic Commission") of the Town. The Town's Planning Commission shall serve as the Historic Commission.
- (b) **Intent.** It is hereby declared to be a matter of public policy that the protection, enhancement, perpetuation and use of structures, land and districts of historical, architectural or geographic significance, located within the Town, is in the public interest.
- (c) **Purpose.** The purposes of the Historic Commission are as follows:
 - i) Promote the health, safety and welfare of the residents of the Town through the regulation of historic and/or cultural sites and structures;
 - ii) Foster civic pride in the beauty and accomplishments of the past;
 - iii) Protect and enhance the attraction to tourists and visitors and increase the quality of life of the residents;
 - iv) Promote the use of historical or architectural sites, structures and objects for the education and welfare of the residents of the Town;

- v) Promote and encourage private ownership, stewardship and utilization of such sites, structures and objects;
 - vi) Integrate historic and/or cultural preservation with the Master Plan;
 - vii) Maintain the Town's unique character by recognizing the importance of preservation and renewing the Town's legacy for present and future generations;
 - viii) Discourage the unnecessary demolition of historic and/or cultural resources;
 - ix) Provide incentives for the continued use of historic and/or cultural resources and facilitate their appropriate stewardship and reuse;
 - x) Encourage the conservation of historic settings and landscapes; and
 - xi) Promote retention of historical integrity in the context of proposed land use.
- (d) **Powers and Duties.** The Historic Commission shall have the following powers and duties:
- i) The Historic Commission shall review from time-to-time the criteria for designation of Historic Sites as set forth in this Development Code, and shall make recommendations to the Council for amendments.
 - ii) The Historic Commission shall prepare application forms, shall review applications for designation of Historic Sites pursuant to this Development Code, shall review alterations of Historic Sites and shall make recommendations to the Council concerning the designation and revocation of Historic Sites.

7.12.080 Other Departments and Agencies.

The Council may request review and input of applications from other Councils, commissions, departments, other governmental agencies and nongovernment agencies, as determined appropriate considering the nature of the application.

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CHAPTER 7.16 – DEVELOPMENT REVIEW PROCEDURES

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7.16.010 Purpose.

This Chapter contains regulations and the procedures for development applications. Section 7.16.020 contains regulations that are generally applicable to all development application review procedures and Table 7.16-1, Review Process Chart, found at the end of this Chapter indicates specific review and approval authority and procedures. The purpose is to establish uniform procedures for application types to the extent possible. Subsequent sections identify the applicability of the common steps to specific procedures, noting any differences between the common procedures and those for the specific procedure. Specific procedure provisions supplement, rather than replace, provisions of the common steps, unless the provisions conflict, in which case the provisions of the specific procedure control.

7.16.020 General Procedures and Requirements.

The following procedures shall apply to all development applications which are reviewed under this Chapter.

- (a) **Step 1: Pre-application Conference.** A Pre-application Conference is required for all development applications, except Minor Use or Building Permit applications, unless waived by the Manager. The Pre-application Conference serves to assist the applicant with:
- (1) identifying information which must be provided for a complete development application;
 - (2) understanding the development application review process;
 - (3) identifying appropriate referral agencies for review and comment;

- (4) achieving compliance with development standards, understanding relevant planning issues; and
- (5) determining appropriate fees.

The Manager may include other Town and agency representatives in the Pre-application Conference as deemed appropriate. The applicant shall provide sufficient information to the Manager at least five (5) business days prior to a scheduled Pre-application Conference, unless such time frame is waived by the Manager. Minimum information shall include:

- (1) applicant information;
- (2) property description;
- (3) description of the proposed development or nature of the development application; and
- (4) conceptual site plans or drawings which illustrate the nature of the development application.

The Manager may provide a written letter after the Pre-application Conference summarizing application submittal requirements, review procedures, development standards, planning issues and required fees. The informal evaluation of the Manager and staff provided at the Pre-application Conference are not binding upon the applicant or the Town. Critical issues relevant to a development application may not be apparent at the Pre-application Conference and may require additional review, submissions or studies later in the application process.

(b) Step 2: Application Submittal.

- (1) **Applicant.** The owner of real property or authorized representative of the owner with a properly acknowledged power of attorney, may submit a development application. No development application shall be received for processing or approved and no application for a building permit shall be granted, when the applicant is in default under any related or unrelated agreement or obligation to the Town.
- (2) **Application Submittal Requirements.** The applicant shall submit the application to the Manager. Application submittal requirements for every application type shall be established by the Manager on submittal forms available in the Appendices to this Code. The Manager may adopt standards and requirements for electronic and graphic information for application submittal requirements. The Manager may waive submission requirements where appropriate to specific applications; however, the waiver of any submission requirement shall not preclude the Planning Commission or Council from requiring such information where deemed necessary for evaluation of the development application with the applicable review criteria. The minimum submittal requirements for all applications shall include:
 - i) Completed application form;
 - ii) Owner's signature or an acknowledged power of attorney if the owner has authorized an agent or representative to act as the applicant;
 - iii) Title insurance commitment which has been updated within sixty (60) days of the application submittal along with copies of all documents listed in the exceptions;
 - iv) Legal description of the property subject to the development application;
 - v) Development application review fees; and
 - vi) Survey no more than three (3) years old stamped by a surveyor licensed in the State of Colorado.

- (3) **Required Studies and Reports.** Reports or studies as may be necessary to adequately evaluate the development application for compliance with the review criteria. Such reports include but are not limited to: studies of soils, geological hazards, fiscal impacts, market analysis, traffic impacts and/or environmental impacts. The applicant shall furnish the reports or studies needed at the applicant's sole expense. The Town may require independent peer review of any report or study provided by the applicant. The applicant and the Town may agree to retain a mutually acceptable consultant to prepare a report or study, which cost shall be paid by the applicant. All required reports or studies shall be executed by professionals or other persons qualified to provide the requested reports. The form and content of reports or studies may be established by the Manager.
- (4) **Concurrent Review Permitted.** Where multiple development applications concern the same property, the Manager may permit concurrent review of the development applications for efficiency and practicality.
- (5) **Multiple Applications.** A single property shall not be permitted to have more than one (1) application of the same type being processed concurrently.
- (6) **Fees.** Fees shall be paid in accordance with Section 7.04.100, Fees.
- (c) **Step 3: Application Processing.**
 - (1) **Determination of Completeness.** A development application shall be reviewed for completeness by the Manager within ten (10) business days after receipt. If the application is determined to not be complete, then a written communication shall be promptly provided to the applicant indicating the specific deficiencies in the application. The determination that an application is complete or the failure to determine an application is incomplete within ten (10) days shall not preclude the Town from requiring information which is necessary and relevant to evaluate the development application for compliance with the review criteria. A determination by the Manager that the application is incomplete may be appealed to the Council in accordance with the procedures in Section 7.16.110, Appeal and Variance.
 - (2) **Referral to Other Agencies.** Development applications may be referred to other agencies for review and comment. The Manager shall attempt to identify appropriate referral agencies and shall consider the comments from referral agencies as part of the staff review and report. The Planning Commission and Council may determine that referral of a development application to an agency for review and comment is appropriate where such referral agencies may provide comments relevant to evaluating the development application for compliance with the review criteria. The review of any proposal may be delayed if additional information and/or studies are required to determine if applicable regulations can be met. Referral agencies may include, but are not limited to:
 - i) Any utility, local improvement or service district or ditch company, when applicable;
 - ii) The Colorado Department of Transportation (CDOT) when the proposed development is adjacent to or in sufficient proximity to affect a CDOT right-of-way, interchange or other facility;
 - iii) The Colorado Geological Survey for findings and recommendations pertaining to geologic factors, including geologic hazards, mineralized areas and sand and gravel areas that would have a significant impact on the proposed use of the land; and

- iv) Any other agency concerned with a matter or area of local interest that could be affected by the application.
- (3) **Staff Review and Report.** The Manager shall review the application in accordance with the criteria established in this Development Code and shall prepare written findings of fact and include any relevant conditions. If authorized as the decision-making authority, the Manager shall inform the applicant in writing of the findings and determination. If not authorized as the decision-making authority, the Manager shall prepare a recommendation and submit the recommendation and findings to the appropriate review and decision-making authority.
- (4) **Required Processing.** Applicants shall be required to continuously and diligently pursue their development applications, which shall include responding in a timely manner to staff comments and requests. An applicant which fails to respond to staff comments or requests for a period of four (4) months shall have their application administratively withdrawn by the Manager unless the Manager determines that good cause exists to extend the application time frame and approves such extension in writing.
- (d) **Step 4: Notice.** Notice shall be required for all public hearings conducted by the Planning Commission and Council. Public meetings (in contrast to public hearings) and notice of such meetings are subject only to the requirements of the Colorado Open Meetings Law, CRS § 24-6-401, et seq.
- (1) **Types of Notices.** The following types of notice shall be used, in accordance with procedures contained in Table 7.16-1, Review Process Chart, to notify the public of applications submitted to the Town for review and decision:
- i) Publication in a newspaper of general circulation.
 - ii) Mail to adjacent property owners.
 - iii) Posting a sign on the property.
 - iv) Certified mail to mineral rights owners, if applicable.
- (2) **Published Notice.** Notice shall be published in the legal section of a newspaper of general circulation within the Town.
- (3) **Posted Notice.**
- i) Notice shall be posted in the designated official places of posting by the Town.
 - ii) Posting of notices on the property subject to an application shall be prepared by the Town and meet the following standards:
 - (A) Include information on how to access the application materials.
 - (B) Include Town contact information.
 - (C) Be of a size and form and consist of at least a single sign facing, and that is reasonably visible and legible from, an adjacent public right-of-way. If there is no location on the subject property that is conspicuously and readily visible from the adjacent public right-of-way, the Manager can approve an alternate location. The Manager may require large properties to include additional signage.
- (4) **Mailed Notice.** For procedures that require mailed notice, notice shall be sent by first-class mail. The Routt County Assessor's records may be used to determine the addresses of real property

owners. Mailed notice shall be sent by the Town at the applicant's expense. The Town shall include a certificate of mailing in the public record.

- (5) **Notice Content.** Every required form of notice shall state the date, time and place of the hearing(s), the name of the applicant, a general description of the subject property indicating its location, a brief summary of the subject matter of the hearing, a description of the proposed development, a statement that the application or information relating to the proposed change or amendment is available in the Manager's office during regular business hours for review or inspection by the public and a statement that written comments may be submitted to the Town.
 - (6) **Public Notice Time Requirements.** Unless otherwise provided in this Code, public notice time requirements include the day the notice is posted, appears in the newspaper, is mailed, and shall also include the day of the public hearing.
 - (7) **Constructive Notice.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description or typographical or grammatical errors that do not impede communication of the notice to affected parties. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing shall be strictly construed. Any person who appears at a public hearing is deemed to have received constructive notice and waived any grounds to challenge defective notice. If a question arises at the hearing regarding the adequacy of notice, the reviewing or decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirements of this Development Code. When the records of the Town document the publication, mailing and posting of notices as required by this Section, it shall be presumed that notice was given as required by this Section. If the reviewing or decision-making body takes action to continue a hearing to a future specified date, time and location, then constructive notice is deemed to have been provided for such continued hearing date and additional notices shall not be required.
- (e) **Step 5: Public Hearings.** The Manager shall schedule a public hearing date before the Planning Commission and/or Council after a complete application has been received, Town staff has completed Town staff review and referral agencies have had an opportunity to provide comments. The Manager may delay the scheduling of a public hearing to a subsequent meeting where an agenda of the Planning Commission or Council is full. A complete application shall be scheduled for an initial public hearing within seventy-five (75) days after the date that the application is determined to be complete unless the applicant consents to scheduling the public hearing on a later date. The Planning Commission or Council may continue a public hearing on its own initiative for a maximum of sixty-five (65) days after the date of the initial public hearing without the consent of the applicant. The Planning Commission or Council may continue a public hearing for a maximum of ninety-five (95) days with the consent of the applicant. The reviewing authority shall have thirty-five (35) days after the close of a public hearing to issue written findings in accordance with Paragraph 7.16.020(f)(3).
- (f) **Step 6: Review and Decision.** The following rules shall apply to review, recommendations and decisions conducted at public hearings:
- (1) **Review Criteria.** The reviewing authority shall be Manager when the Manager has the authority to approve a development application. The reviewing authority shall be the Planning Commission and/or Council for all development applications which are subject to public hearing. The reviewing authority shall review development applications for compliance with all relevant

standards and criteria as set forth in the specific procedures for the particular application in this Development Code, as well as the following general criteria which shall apply to all development applications:

- (i) The development application is complete;
 - (ii) The development application provides sufficient information to allow the reviewing authority to determine that the development application complies with the relevant review criteria;
 - (iii) The development application complies with the goals and policies of the Master Plan; and
 - (iv) The demand for public services or infrastructure exceeding current capacity is mitigated by the development application.
- (2) **Authority to Require Additional Studies.** If the reviewing authority finds that the submittal materials are not adequate to evaluate the development against the review criteria, it may require additional studies as necessary. In doing so, the reviewing authority shall indicate the specific consequences or concerns for which the standard submittal requirements fail to provide adequate means of evaluation and the data or information needed for proper evaluation. The results of any study or analysis shall not dictate either approval or disapproval of the proposed project.
- (3) **Findings.** The reviewing authority shall adopt written findings which document that a recommendation or decision is based upon a determination of whether the development application complies with the applicable review criteria. The written findings shall state the conditions or mitigation.
- (4) **Conditions.** The reviewing authority may recommend approval or may approve a development application with conditions where such conditions are deemed necessary to ensure compliance with the applicable review criteria and the purpose and intent of this Development Code. Conditions shall be in written form. Conditions may include:
- (i) Specific time limits for performance of any condition.
 - (ii) Financial performance guarantees from the applicant where the condition requires improvements for mitigation, where deemed necessary to public health, safety or welfare or where deemed necessary to protect adjacent property or public infrastructure. Financial performance guarantees shall be in the form of an agreement which is acceptable to the Town.
 - (iii) Limitation on hours and/or days of operation.
 - (iv) Requirement for review, on an annual or other basis, of the history of permit condition compliance.
 - (v) Right to prohibit or restrict transfer of a permit.
 - (vi) Duration of a permit.
 - (vii) Such other conditions as are found to be reasonable and appropriate to address or mitigate any significant negative impacts or a threat to public health, safety or welfare presented by the proposal.

- (5) **Final Decision.** A decision by the reviewing authority shall become final unless a written appeal is timely submitted to the Town in accordance with the applicable provisions of this Development Code. The date of the decision shall be the date that the reviewing authority renders a decision. The Town shall mail the written findings and notification of decision to the applicant within five (5) working days of the decision of the reviewing authority. The Council reserves the authority to render a final decision on all decisions rendered under this Development Code, and only a decision of the Council may be subject to legal challenge. The failure to timely submit a written appeal of a decision of the reviewing authority shall be deemed to be a waiver of any right to legally challenge such decision.
- (g) **Expiration of Approval.** All development approvals shall expire and become void two (2) years after the date of the approval if a building permit has not been issued prior to the expiration date, except when a different duration is specified in the development approval, a different duration is specified in the specific procedures for the development approval or a request for extension is approved by the reviewing authority which granted the original development approval. The owner shall submit a written request for an extension to the Manager prior to the expiration date and shall state the reasons and circumstances for such extension request. The Manager and the Planning Commission may provide one (1) extension for a maximum of one (1) year. The Council may provide multiple extensions and may provide extensions greater than one (1) year.

7.16.030 Master Plan Amendment.

This Section sets forth procedures for reviewing proposed amendments to the texts and maps of the Master Plan. The amendment process is established to provide flexibility in response to changing circumstances, to reflect changes in public policy and to advance the general welfare of the Town.

- (a) **Review Procedures.** Applications to amend the Master Plan shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications to amend the Master Plan may be initiated by the Council, any registered voter of the Town or any property owner in the Town.
- (b) **Review Criteria.** The Planning Commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the Master Plan:
- (1) The surrounding area is compatible with the land use proposed in the plan amendment or the proposed land use provides an essential public benefit and other locations are not feasible or practical;
 - (2) Transportation services and infrastructure have adequate current capacity or planned capacity, to serve potential traffic demands of the land use proposed in the plan amendment;
 - (3) Public services and facilities have adequate current capacity or planned capacity to serve the land use proposed in the plan amendment;
 - (4) The proposed land use in the plan amendment will result in a better location or form of development for the Town, even if the current plan designation is still considered appropriate;
 - (5) Strict adherence to the current plan would result in a situation neither intended nor in keeping with other key elements and policies of the plan;
 - (6) The proposed plan amendment will promote the purposes stated in this Development Code; and

- (7) The proposed plan amendment will promote the health, safety or welfare of the Hayden Community and will be consistent with the general goals and policies of the Master Plan.

7.16.040 Code Text Amendment.

The Council may amend the text of the Development Code, including the adoption, modification or replacement of appendices to the Development Code, pursuant to this Section. The purpose of a code text amendment is to address changed conditions, unintended consequences or changes in public policy, and to advance the general welfare of the Town.

- (a) **Review Procedures.** Applications to amend the text of the Development Code shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications to amend the text of the Development Code may be initiated by the Council, Town staff, Planning Commission, or any property owner or resident within the Town.
- (b) **Review Criteria.** The Planning Commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications to amend the text of the Development Code:
 - (1) The text amendment promotes the health, safety and general welfare of the Hayden community;
 - (2) The text amendment promotes or implements the goals and policies of the Master Plan;
 - (3) The text amendment promotes or implements the purposes stated in this Development Code; or
 - (4) The text amendment is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions.

7.16.050 Zone Change.

The boundaries of any zone district may be changed or the zone classification of any parcel of land may be changed pursuant to this Section. The purpose is not to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy or that are necessary to advance the general welfare of the Town.

- (a) **Review Procedures.** Applications for a zone change shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications to rezone property may be initiated by the Council, Town staff, Planning Commission, or any property owner or resident within the Town.
- (b) **Review Criteria.** The Planning Commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications for zone changes:
 - (1) Correction of an error in an ordinance establishing the zoning for a specific property (if applicable);
 - (2) Evidence of substantial compliance with the purposes of the Development Code;
 - (3) Consistency with the Master Plan;
 - (4) Physical suitability of the land for the proposed development or subdivision;
 - (5) Compatibility with surrounding land uses;

- (6) Whether the proposed rezoning is justified by changed or changing conditions in the character of the area proposed to be rezoned;
 - (7) Whether there are adequate facilities available to serve development for the type and scope suggested by the proposed zone compared to the existing zoning, while maintaining adequate levels of service to existing development;
 - (8) Whether the rezoning is consistent with the stated purpose of the proposed zoning district;
 - (9) That, compared to the existing zoning, the rezoning is not likely to result in adverse impacts upon the natural environment, including air, water, noise, stormwater management, wildlife and vegetation, or such impacts will be substantially mitigated;
 - (10) That, compared to the existing zoning, the rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
 - (11) Adequate mitigation is required for zone change applications which result in greater intensity of land use or increased demands on public facilities and infrastructure.
- (c) **Mitigation.** Zone change applications which propose a greater intensity of land use or increased demands on public services or infrastructure shall be required to provide adequate mitigation of such impacts. Greater intensity of land use or increased demands on public facilities and infrastructure shall include, but are not limited to: transportation, water, sewer, schools, emergency services, police, parks and recreation, medical and library. Adequate mitigation may include providing dedications of land or cash-in-lieu for the proportionate share of capital investment in public facilities and infrastructure related to the potential incremental increase of demand created from the existing zoning classification to the proposed zoning classification.

7.16.060 Conditional Use.

In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific conditional uses for each zone district are listed in the Uses by Zoning District Table. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to assure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large. Conditional uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

- (a) **Review Procedures.** Applications for a conditional use shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications for conditional use may be initiated by the property owner and may not be initiated by any other person.
- (b) **Review Criteria.** The Planning Commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications for conditional uses:
 - (1) The proposed conditional use is consistent with the Master Plan and all applicable provisions of this Development Code and applicable state and federal regulations;

- (2) The proposed conditional use is consistent with the purpose and intent of the zoning district in which it is located and any applicable use-specific standards in the Development Code;
 - (3) The proposed conditional use is compatible with adjacent uses in terms of scale, site design and operating characteristics;
 - (4) The proposed conditional use will not substantially alter the basic character of the district in which it is in or jeopardize the development or redevelopment potential of the district;
 - (5) The proposed conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site;
 - (6) Any significant adverse impacts (including but not limited to hours of operation, traffic generation, lighting, noise, odor, dust and other external impacts) anticipated to result from the conditional use will be mitigated or offset to the maximum extent practicable;
 - (7) Facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
 - (8) Adequate assurances of continuing maintenance have been provided; and
 - (9) The proposed conditional use meets all the applicable standards in Chapter 7.24 Development Standards.
- (c) **Authority to Impose Conditions on Permit.** The Council may approve conditional use permits that have the following conditions or limitations:
- (1) The conditional use permit may be revocable;
 - (2) The conditional use permit may be granted for a limited time period;
 - (3) The conditional use permit may be granted subject to conditions as the Council may determine appropriate to mitigate adverse impacts, promote compatibility with surrounding uses, or otherwise necessary to meet the review criteria; and
 - (4) Conditions may include, but shall not be limited to:
 - (i) requiring special setbacks;
 - (ii) open spaces, fences or walls, landscaping or screening;
 - (iii) street dedication and improvement, regulation of vehicular access and parking;
 - (iv) signs;
 - (v) illumination;
 - (vi) hours and methods of operation;
 - (vii) control of potential nuisances;
 - (viii) prescription of standards for maintenance of buildings and grounds; and
 - (ix) prescription of development schedules.

7.16.070 Planned Unit Development

- (a) **Purpose.** This Section is intended to allow flexible development patterns in a manner varying from the constraints upon innovative design and creative land use that might otherwise be imposed by strict compliance with or are not specifically provided for in this Development Code. It is the purpose of this Section:
- (1) To promote and permit flexibility that will encourage innovative and imaginative approaches in land development and site design that will result in a more efficient, aesthetic, desirable and economic use of land while maintaining the goals and policies of the Master Plan;
 - (2) To promote development within the Town that can be conveniently, efficiently and economically served by existing local utilities and services or by their logical extension;
 - (3) To promote design flexibility, including placement of buildings, use of open space, pedestrian and vehicular circulation systems to and through the site and off-street parking areas in a manner that will best utilize potential on-site characteristics such as topography, geology, geography, size and proximity;
 - (4) To provide for the preservation of historic or natural features where they are shown to be in the public interest including, but not limited to, such features as: drainage ways, floodplains, existing topography or rock outcroppings, unique areas of vegetation, historic landmarks or structures;
 - (5) To provide for compatibility with the area surrounding the project site;
 - (6) To provide for usable and suitably located open space such as, but not limited to, bicycle paths, playground areas, courtyards, tennis courts, swimming pools, planned gardens, outdoor seating areas, outdoor picnic areas and similar open space;
 - (7) To minimize adverse environmental impacts of development;
 - (8) To improve the design, quality and character of new development including energy efficiency; and
 - (9) To promote community benefits in recognition of design flexibility.
- (b) **Eligibility Criteria.** All of the following criteria must be met for a property to be eligible to apply for PUD approval.
- (1) **Consistency with Master Plan.** The proposed development shall be consistent with the Master Plan.
 - (2) **Consistent with PUD Intent.** The proposed development shall be consistent with the intent and spirit of the PUD purpose statement in Subsection 7.16.070(a).
 - (3) **Compatibility with Existing Uses.** The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Development Code or planned for in the Master Plan.
 - (4) **Public Benefit.** A recognizable and material benefit will be realized by both the future residents and the Town as a whole through the establishment of a PUD, where such benefit would otherwise be infeasible or unlikely.
 - (5) **Preservation of Site Features.** Long-term conservation of natural, historical, architectural or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as permitted by the underlying zoning district.

- (6) **Sufficient Land Area for Proposed Uses.** Sufficient land area has been provided to comply with all applicable regulations of the Development Code, to adequately serve the needs of all permitted uses in the PUD projects and to ensure compatibility between uses and the surrounding neighborhood.
- (c) **Dimensional and Development Standards.** The following dimensional and development standards shall apply to all PUDs.
- (1) **Overlay District.** A PUD is permitted in any zone district.
- (2) **Permitted Uses.** PUD uses shall not be limited to those allowed in the underlying zone district, but shall provide significant community enhancement not achievable through application of a standard zone district and may include any uses or mix of uses supported by the Master Plan.
- (3) **Development Standards.** Chapter 7.24, Development Standards, shall apply to PUD projects.
- (d) **General Procedures.** All PUDs are processed in two stages: (1) the preliminary PUD; and (2) the final PUD unless consolidation of PUD review is approved by the Town. The final PUD can only be filed with the Town for review and processing after the preliminary PUD has been approved or conditionally approved by the Council. The filing of a PUD shall not constitute the effective dedication of easements, rights-of-way or access control, nor shall the filed PUD plan be the equivalent or substitute for the Final Platting of land. Specific procedures for preliminary PUD and final PUD are outlined below.
- (1) **Coordination With Subdivision Review.** It is the intent of this Development Code that subdivision review required under Section 7.16.080, Subdivisions, as applicable, be carried out concurrently with the review of PUD development plans under this Section. If subdivision approval is required for the subject property, the PUD plans required under this Section shall be submitted in a form that satisfies the requirements for preliminary and final subdivision plat approvals. If any provisions of this Section conflict with the subdivision procedures or standards of this Development Code, the more restrictive or detailed requirements shall be met, unless specifically altered by the Council.
- (e) **Procedures for Preliminary PUD.** The general procedures set forth in in Section 7.16.020, General Procedures and Requirements and Table 7.16-1, Review Process Chart, shall apply to preliminary PUD applications. Where subdivision approval will be required to implement development in a proposed PUD, the applicant shall file a plans incorporating the application requirements of both the PUD and subdivision Preliminary Plans.
- (1) **PUD Master Plan and Guide Required.** The application for PUD shall include a preliminary PUD plan. The Manager shall require sufficient detail in the preliminary PUD plan to provide an opportunity for the approving bodies to make informed decisions and evaluate compliance with the applicable approval criteria. The plan shall include, at a minimum:
- (i) A quantitative summary of existing conditions on the subject property;
 - (ii) A clear definition of permitted uses to be allowed within the PUD;
 - (iii) Parking analysis based on proposed uses;
 - (iv) Density of uses proposed;
 - (v) Location of public and private open space;
 - (vi) Location of existing and proposed buildings on the site;

- (vii) Road, street and pedestrian networks proposed;
 - (viii) Drainage facilities;
 - (ix) Existing or proposed utilities and public services;
 - (x) If development is to be phased, a description of the phase components and timing;
 - (xi) A statement that development on the site will meet applicable standards of the underlying zoning district and this Development Code or a statement specifying the standards of the underlying district and this Development Code to which modifications are proposed and the justification for such modifications; and
 - (xii) A statement specifying the public benefits to be contained in or associated with the PUD.
- (2) **Review Criteria.** The Planning Commission and Council shall consider the following criteria as the basis for a recommendation or decision on a PUD, to approve a preliminary PUD plan or to process a PUD amendment:
- (i) The PUD addresses a unique situation, confers a substantial benefit to the Town and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to, improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads and other utilities and services; or increased choice of living and housing environments;
 - (ii) The PUD rezoning will promote the public health, safety and general welfare;
 - (iii) The PUD rezoning is consistent with the Master Plan, the purposes of this Development Code and the eligibility criteria outlined in Subsection 7.16.070(b);
 - (iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection and sewage and waste disposal, as applicable) will be available and maintained appropriately to serve the subject property while maintaining adequate levels of service to existing development;
 - (v) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife and vegetation, or such impacts will be substantially mitigated;
 - (vi) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
 - (vii) Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.
- (3) **Submission Deadline for Final PUD Master Plan.** Within six (6) months following approval of the preliminary PUD plan, the applicant shall initiate the second stage of the application process by filing with the Manager a final PUD plan and subdivision plat if necessary, containing in final form all the information required in the preliminary PUD plan, along with such other documents as may be necessary to implement the plan or to comply with all applicable requirements of this Development Code. Upon written request by the applicant prior to the application lapsing, the

Planning Commission, for good cause, may extend the period for filing the final PUD plan for a period not to exceed six (6) months. Any additional extensions of the time period for filing the Final PUD plan must be approved by Council.

- (f) **Procedures for Final PUD Approval.** The general procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart, shall apply to final PUD applications subject to the following exceptions and additions:

- (1) **Contents of the Final PUD Master Plan.** The final PUD master plan shall contain all of the materials included in the preliminary PUD development plan, together with revisions, if any, that may be approved by the Planning Commission without an additional public hearing, as described in Subparagraph 2. below. In addition to these materials, the final PUD master plan shall include the following:

- (i) Phasing Program. A document describing any proposed phasing program of the development for all structures, recreational and other common facilities and open space improvements, including time schedule for commencement and completion dates of construction of each phase. Intermediate phases shall not exceed overall project density, and a pro rata allocation of common open space shall be made as each phase is developed.
- (ii) Common Open Space Agreement. A copy of the formal agreement with a public agency or private association for the ownership and maintenance of the common open space is required.
- (iii) Plats for Recording. A copy of any subdivision plat, plat of dedication or plat of vacation that may be a necessary part of the PUD is required.
- (iv) Covenant. A restrictive covenant in a form acceptable to the Town Attorney limiting development or construction upon the tract as a whole to such development and construction as shall comply with the final PUD development plan as approved by the Council, which document shall include a provision granting the Town a right to enforce the same.

- (2) **Permitted Minor Changes From a Preliminary PUD Master Plan.** Minor changes in the location, siting and height of structures, streets, driveways and open spaces may be authorized by the Planning Commission to be included in the final PUD master plan in accordance with the following procedure without additional public hearings, if such changes are required by engineering or other circumstances not foreseen at the time the preliminary PUD development plan is approved. No change authorized by this Subsection may cause any of the following:

- (i) A change in the use or character of the development;
- (ii) An increase by more than five percent (5%) in the overall coverage of structures;
- (iii) An increase in the density or intensity of use;
- (iv) An increase in the impacts on traffic circulation and public utilities; and
- (v) A reduction of not more than one percent (1%) in approved common open space.

- (3) **Review Criteria.** The Planning Commission and the Council shall review the final PUD development plan according to the same review criteria listed above for preliminary PUD development plans.

- (g) **Recordation.** The applicant shall record the final PUD, as approved, in the office of the Routt County Clerk and Recorder within ninety (90) days after the date of approval. If the final PUD is not recorded, the approval of the Council shall be deemed to have been withdrawn and the approval shall be null and void.
- (h) **Amendments to a Final PUD.** Unless a final PUD contains different amendment procedures, amendments to a final PUD are governed by this subsection. The PUD amendment process is dependent on the type of amendment.
 - (1) **PUD Amendment Categories.** Categories of PUD amendments are established and defined as follows for the purpose of determining the appropriate review procedure:
 - (i) Administrative Amendment. A proposed PUD amendment is considered administratively if it provides for the correction of any errors caused by mistakes that do not materially alter the substance of the PUD development plan as represented to the Council.
 - (ii) Minor Amendment. A proposed PUD amendment is considered minor if it meets the following criteria for decision and has been determined as such by the Manager:
 - (A) The PUD amendment does not increase density, increase the amount of nonresidential land use or alter by more than ten percent (10%) any approved building scale and mass of development.
 - (B) The PUD amendment does not change the character of the development and maintains the intent and integrity of the PUD.
 - (C) The PUD amendment does not result in a net decrease in the amount of open space or result in a change in character of any of the open space proposed within the PUD.
 - (iii) Major Amendment. A PUD amendment that is not classified as an administrative amendment or minor amendment is considered a major amendment.
 - (2) **Review Criteria.** The Planning Commission and Council shall review a PUD amendment according to the same review criteria listed above for a preliminary PUD development plan.
- (i) **Lapse.** Unless otherwise provided by the Council, development of an approved PUD shall commence within twelve (12) months from the recording of the final PUD plan. If development has not commenced accordingly, the Manager may initiate a public hearing process for the purpose of considering whether to revoke the PUD approval.
- (j) **Revocation of a Final PUD.** A final PUD may be revoked pursuant to the procedures and criteria set forth in this Section.
 - (1) **Initiation of Revocation Proceedings.** Revocation of a PUD may occur if:
 - (i) The landowner or a majority of the owners of property within the subject PUD, petition for revocation of such PUD plan in whole or in part;
 - (ii) The project falls more than three (3) years behind the phasing plan or schedule filed with the final PUD;
 - (iii) Construction and/or application for building permits have not commenced within one (1) year of recording of the final PUD; or

- (iv) The construction and provision of landscaping, buffers, open space and public streets and facilities that are shown on the final plans are proceeding at a substantially slower rate than other project components.

(2) Public Notice and Review Requirements.

- (i) Notice and Hearings. The general procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart, shall apply to the notice and hearing processes for a Revocation proceeding.
- (ii) Planning Public Hearing. The Planning Commission shall hold a public hearing and make a recommendation to revoke the final PUD, keep the final PUD in force, or postpone action. The Planning Commission shall not recommend revocation of the final PUD to the Council unless the Planning Commission makes the findings required for revocation described in Subsection (3) below. The Planning Commission may impose reasonable conditions on such revocation in order to advance the health, safety and welfare of the citizens, such as vacation of the underlying Final Plat.
- (iii) Council Public Hearing. The Council shall hold a public hearing and determine whether to revoke, postpone or keep the final PUD in force. The Council shall not revoke the final PUD unless it makes the findings required for revocation described in Subsection (3) below. The Council may impose reasonable conditions on such revocation in order to advance the health, safety and welfare of the citizens, such as vacation of the underlying Final Plat.

(3) Required Findings for Revocation. The Planning Commission shall not recommend revocation and the Council shall not revoke any final PUD unless the following findings are made:

- (i) Revocation proceedings were initiated pursuant to this Section; and
- (ii) The property owners were notified no less than sixty (60) days prior to Planning Commission action on the revocation; and
- (iii) Public notice was mailed prior to the Planning Commission hearing on the revocation and prior to the Council hearing on the revocation pursuant to the provisions of Table 7.16-1, Review Process Chart; and
- (iv) The PUD is not compatible with the surrounding area; or
- (v) There is not a need for the uses in the area included within the PUD plan; or
- (vi) The PUD will have adverse impacts on future development of the area; or
- (vii) The traffic generated by the PUD plan will have adverse impacts on the neighborhood and the surrounding area; or
- (viii) The PUD will have adverse impacts on community facilities in the neighborhood and on the surrounding area, including but not limited to schools, library, police and fire protection, recreation facilities, park lands and open space; or
- (ix) The PUD will have adverse impacts on municipal infrastructure in the area, including but not limited to water service, wastewater service, storm water service, transportation systems and street systems; or

- (x) The PUD will not comply with the standards and specifications for design and construction of public improvements in force at the time of the public hearing; or
- (xi) The owner or applicant has not met all dates established in the PUD plan for the commencement of construction of the PUD or for a phase of the PUD plan; or
- (xii) The revocation is in conformance with the provisions contained in applicable sections of this Code, and consistency with the adopted Master Plan for the Town, applicable specific plans, and relevant Town policies.

7.16.080 Subdivisions.

The purpose of the subdivision review procedures is to ensure compliance with all the standards and requirements in this Development Code and encourage quality development consistent with the goals, policies and objectives in the Master Plan and purposes of this Development Code.

(a) **Applicability.** The procedures of this Section and the standards in Chapter 7.24, Development Standards, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining or altering of any lot, parcel or tract of land, including land used for condominiums, apartments or any other multiple dwelling units or creation of an estate in airspace, except any subdivisions that are specifically excluded by state law. If a tract of land that has been created or subdivided in the past is later described as a single tract in deeds, recorded documents, or plat by the legal or equitable owners, any later subdivisions of that tract, even if along the lines of the earlier subdivision, shall be subject to the requirements of these regulations. If any tract of land or airspace has been subdivided as one (1) type of subdivision and thereafter is subdivided so as to create a different type of subdivision (for example, conversion of a condominium subdivision to a timesharing subdivision), the conversion shall be subject to the requirements of this Development Code. Unless the method of disposition is adopted for the purpose of evading the requirements of the Development Code, this procedure shall not apply to any division of land that:

- (1) Is created by a lien, mortgage, deed of trust or any other security instrument;
- (2) Is created by any interest in an investment entity;
- (3) Creates cemetery lots;
- (4) Creates an interest or interests in oil, gas, minerals or water that are severed from the surface ownership of real property;
- (5) Is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common of such interest. For the purpose of this Paragraph, any interest in common or owned in joint tenancy shall be considered a single interest;
- (6) Creates a leasehold interest with a term of less than twenty (20) years and involves no change in use or degree of use of the leasehold estate; or
- (7) Is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Section and any applicable Town regulations, the land to be acquired pursuant to the contract.

(b) **Subdivision Categories.** Categories of subdivisions are established and defined as follows for the purpose of determining the appropriate subdivision review procedure:

(1) **Administrative Subdivisions.** Administrative subdivisions are subdivisions that include

- (i) subdividing a parcel of land for a duplex,
- (ii) replatting for the purpose of correcting survey, typographical, or similar errors ("Plat Corrections"),
- (iii) replatting which adjust lot lines between buildable Lots, do not change the number of lots, and do not decrease the size of any non-conforming Lot ("Lot Line Adjustments"), and
- (iv) replatting to merge contiguous, platted lots into one or more lots and that involves no rezoning or vacation of rights-of-way or easements ("Consolidation Plat").

The Manager has the authority to determine that an Administrative Subdivision application shall be processed as a Minor Subdivision where the character of the subdivision application or multiple applications presents issues which, in the opinion of the Manager, warrant review as a Minor Subdivision.

(2) **Minor Subdivisions.** Minor subdivisions include all subdivisions which would create less than six (6) separate parcels of land, which subdivide a parcel six (6) acres or less size; and, which do not require or propose public right-of-way dedications or public improvements; but shall not include subdivisions which are administrative subdivisions.

(3) **Major Subdivision.** Major subdivisions include all subdivisions which:

- (i) create six (6) or more separate parcels of land;
- (ii) subdivide a parcel greater than six (6) acres; or,
- (iii) involve the dedication of public rights-of-way or construction of public improvements.

(c) **Review Procedures.** Applications for a subdivision shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. The Manager may combine Sketch Plan, Preliminary Plan and/or Final Plat reviews where the subdivision applications can be reviewed efficiently and effectively with a combined process.

(d) **Sketch Plan Review Criteria.** The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for Sketch Plan subdivision applications:

- (1) The land use mix within the project conforms to Official Zoning Map and Master Plan Future Land Use Map and furthers the goals and policies of the Master Plan;
- (2) The Sketch Plan represents a functional system of land use and is consistent with the rationale and criteria set forth in this Development Code and the Master Plan;
- (3) The utility and transportation designs are adequate given existing and planned capacities of those systems;
- (4) Negative impacts on adjacent land uses have been identified and proposed mitigation is adequate; and
- (5) 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 according to the Master Plan and goals and purposes of this Development Code.

- (e) **Preliminary Plan Review Criteria.** The reviewing authority will use the following review criteria as the basis for recommendations and decisions on applications for Preliminary Plan subdivision applications:
- (1) The Preliminary Plan is consistent with the approved Sketch Plan and incorporates the Planning Commission recommendations and conditions of approval;
 - (2) The proposed subdivision shall comply with all applicable use, density, development and design standards set forth in this Development Code that have not otherwise been modified or waived pursuant to this Chapter and that would affect or influence the layout of lots, blocks and streets, and the proposed subdivision does not create lots or patterns of lots that will render compliance with such development and design standards difficult or infeasible;
 - (3) The subdivision application complies with the purposes of this Development Code;
 - (4) The subdivision application and proposed land use mix is consistent with Official Zoning Map, the Master Plan and other community planning documents;
 - (5) The land is physically suitable for the proposed development or subdivision;
 - (6) The proposed subdivision is compatible with surrounding land uses;
 - (7) There are adequate public facilities for potable water supply, sewage disposal, solid waste disposal, electrical supply, fire protection and roads and will be conveniently located in relation to schools, police, fire protection and emergency medical services;
 - (8) The proposed utility and road extensions are consistent with the utility's service plan and are consistent with the Master Plan;
 - (9) The utility lines are sized to serve the ultimate population of the service area to avoid future land disruption to upgrade under-sized lines;
 - (10) The subdivision is compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area;
 - (11) Any proposed subdivision for an existing PUD shall be consistent with the relevant PUD Master Plan as reflected in the approval of that PUD;
 - (12) Appropriate utilities, including water, sewer, electric, gas and telephone utilities, has provided a "conditional capacity to serve" letter for the proposed subdivision;
 - (13) That the general layout of lots, roads, driveways, utilities, drainage facilities and other services within the proposed subdivision are designed in a way that minimizes the amount of land disturbance, minimize inefficiencies in the development of services, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat and otherwise accomplishes the purposes of this Development Code;
 - (14) Evidence that all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified by the applicant and that the proposed use of these areas are compatible with such conditions or that adequate mitigation is proposed;
 - (15) The subdivision application addresses the responsibility for maintaining all roads, open spaces and other public and common facilities in the subdivision and that the Town can afford any proposed responsibilities to be assumed by the Town;

- (16) Adverse impacts on adjacent or nearby land uses have been identified and appropriate and effective mitigation is proposed;
 - (17) If applicable, the declarations and owners' association are established in accordance with the law and are structured to provide adequate assurance that any site design standards required by this Development Code or conditions of approval for the proposed subdivision will be maintained or performed in a manner which is enforceable by the Town; and
 - (18) As applicable, the proposed phasing for development of the subdivision is rational in terms of available infrastructure capacity and financing.
- (f) **Final Plat Review Criteria.** After approval of a Preliminary Plan, the applicant may submit an application for a Final Plat. The following criteria shall apply to review of a Final Plat subdivision application:
- (1) The Town shall confirm the legal description of the subject property to determine that:
 - (i) The property described contains all contiguous single ownership and does not create a new or remaining unrecognized parcel of less than thirty-five (35) acres in size;
 - (ii) The lots and parcels have descriptions that both close and contain the area indicated; and
 - (iii) The plat is correct in accordance with surveying and platting standards of the State.
 - (2) The Final Plat conforms to the approved Preliminary Plan and incorporates all recommended changes, modifications and conditions attached to the approval of the Preliminary Plan;
 - (3) The Final Plat conforms to all Preliminary Plan criteria;
 - (4) The development will substantially comply with all sections of the Development Code;
 - (5) The Final Plat complies with all applicable technical standards adopted by the Town; and
 - (6) Appropriate utilities have provided an ability to serve letters, including but not limited to water, sewer, electric, gas and telecommunication facilities.
- (g) **Acknowledgement of Merger of Title.** A recordable document entitled "Acknowledgement of Merger of Title" executed by the owner may be filed in lieu of a Lot Line Adjustments or Consolidation Plats as required herein, provided all of the following are met:
- (1) All parcels are Contiguous;
 - (2) The merger will not result in a lot or lots violating any provisions of this Development Code or the creation of additional lots; and
 - (3) The Acknowledgement of Merger of Title clearly identifies, by legal description, the parcels to be merged and the resulting lot.
- (h) **Public Improvements Guarantee.** Guarantees for public improvements shall comply with Subsection 7.24.280 Public Improvements Agreements.
- (i) **Revocation.** An approval of a Final Plat is revoked pursuant to this Section.
- (1) **Recording.** The applicant shall cause the Final Plat and restrictive covenants, if any, to be recorded within ninety (90) days from the date of approval and acceptance of the Council. In the event that the plat is not recorded, the approval of the Council shall be deemed to be void and

such plat shall not thereafter be recorded, unless and until the Mayor executes a written authorization for recording the Final Plat.

- (2) **Vacation.** The Final Plat approval shall include a determination of a reasonable time by which the project should be completed. All Final Plats given final approval shall contain a notation or be subject to a development agreement cited thereon indicating the date by which a project is expected to be completed, that shall be prima facie evidence of a reasonable time by which the project should have been completed. A plat or any portion thereof that has been finally approved by the Council and has been recorded shall be subject to vacation proceedings if the project that is the subject of the subdivision is not completed within the time set by the Council.
- (3) **Extension.** Extensions of the time limit for project completion may be obtained from the Council for good cause shown, upon request by the applicant or owner of the tract, if made before vacation proceedings are instituted.

7.16.090 Historic Site Designation.

This Section sets forth procedures for designation of historic, architectural or cultural significance for preservation.

- (a) **Process for Historic Site Designation.** Applications for Historic Site Designation, including Amendments to Historic Site Designations, and Revocation of Historic Site Designation, shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications under this Section may be made only by the owner of a property for which the application is submitted, except that the Historic Commission may apply for Revocation of an Historic Site Designation.
- (b) **Criteria for Historic Site Designation.** To qualify for designation as a Historic Site the application must meet the following criteria:
 - (1) The Applicant must agree to the recording of a Resolution in the Routt County Clerk and Records Office that contains findings that serve as the basis for the Historic Site Designation, contains requirements for prior notification to the Town of any alteration of the Historic Site set forth in Subsection (d) below, contains recommended standards for any alteration of the Historic Site, and contains disclosure of potential revocation of the Historic Site Designation; and
 - (2) The reviewing authority must determine that the site has historic significance due to one or more of the following factors:
 - (i) It has character, interest or value, as part of the historical development, heritage or culture of the community, state, or nation;
 - (ii) Its location is a site of a significant historic event;
 - (iii) Its identification with a person or persons who significantly contributed to the culture and development of the Town;
 - (iv) Its exemplification of the cultural, economic, social, or historic heritage of the Town;
 - (v) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - (vi) Its embodiment of distinguishing characteristics of an architectural type or specimen;

- (vii) Its identification as the work of an architect or master builder whose individual work has influenced the development of the Town;
 - (viii) Its embodiment of the elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation;
 - (ix) Its relationship to other distinctive areas that are eligible for preservation according to a plan based on a historic, cultural, or architectural motif; and
 - (x) Its unique location or singular physical characteristic represents an established familiar visual feature of a neighborhood or of the Town.
- (c) **Alteration of a Designated Historic Site.** All modifications to designated Historic Sites should be done in conformance with the *Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* as published by the U.S. Department of the Interior, National Park Service. Any modifications to a designated Historic Site that are not in conformance with such standards may result in revocation of the Historic Site Designation.
- (d) **Notice of Intent to Alter Designated Historic Site.** The Historic Site Designation resolution shall include an agreement by the property owner that the owner shall provide written notice to the Manager of the owner's intention to alter, demolish, move or remove the Historic Site and shall provide plans for such work for review and consideration in accordance with the requirements of Table 7.16-1, Review Process Chart. Based on the proposed alteration, the Historic Commission may make a recommendation to the Council to amend or revoke the Historic Site Designation.
- (e) **Revocation of Historic Site Designation.** If the designated Historic Site is altered, then the reviewing authority may consider action to revoke the Historic Site Designation based on the following criteria:
- (1) If any owner of a designated Historic Site fails to provide notification as required in this Development Code, or if alterations to the site will significantly alter the historic character of the Historic Site;
 - (2) If an owner of a designated Historic Site submits a written request to the Town for revocation of a historic designation;
 - (3) If the Historic Commission makes a recommendation for modification or revocation based on an owner's written intent to alter a designated historic site; or
 - (4) If modifications are made to a Historic Site that are found by the Historic Commission to not be in accordance with the standards specified in this Section.

7.16.100 Location, Character and Extent

This Section implements and sets forth procedures for the regulation of the location, character and extent of public facilities as provided by CRS § 31-23-209, Legal Status of Official Plan, as amended. It is the intent of this Section to conform to the provisions of CRS §31-23-209 to define the factors to be considered in the "Location, Character and Extent" process and to prescribe procedures for the orderly consideration of location, character and extent applications in order to effectuate the purposes of the state statute.

- (a) **Applicability.** No road, park, public way, ground or space, no public building or structure and no major facility of a public utility shall be constructed or authorized, and no building permit for the same shall be issued, in the Town unless and until the proposed location, character and extent thereof has been

submitted to and approved by the Town. Routine extensions of public utility lines and minor modifications to existing facilities shall not be subject to this procedure.

- (b) **Review Procedures.** Applications for location, character and extent shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications for location, character and extent may be initiated by the owner or the governmental body having jurisdiction over the public facility. Applications for location, character and extent may be combined with other application procedures and submittal requirements, including but not limited to site plan, design review and subdivision. The failure of the Planning Commission and Council to act within sixty (60) days from and after the date of official submission of a complete application to the Town shall be deemed approval of such application.
- (c) **Review Authority.** The Planning Commission shall review applications for location, character and extent after conducting a public hearing. The Planning Commission may approve, approve with conditions or deny an application for location, character and extent. In case of disapproval or approval with conditions which are not acceptable to the applicant, the Planning Commission shall communicate its reasons to the Council. The Council shall review such decision of the Planning Commission as soon as practical after conducting a public hearing and shall have the power to overrule or modify such decision by a majority vote. The public hearing by Council shall only require posted notice three (3) days prior to the hearing. If the public way, ground space, building, structure or utility is one the authorization or financing of which does not, under the law or charter provisions governing the same, fall within the province of the municipal governing body, the submission to the Planning Commission shall be by the governmental body having jurisdiction. The decision by the Council to disapprove or approve with conditions which are not acceptable to the governmental body having jurisdiction may be overruled by said governmental body by a vote of not less than two-thirds of its membership.
- (d) **Review Criteria.** The Planning Commission and Council shall use the following review criteria as the basis for recommendations and decisions on applications for location, character and extent:
 - (1) Evidence of substantial compliance with the purposes of this Development Code;
 - (2) Consistency with the Master Plan;
 - (3) Physical suitability of the land for the public way, place, structure, facility or utility;
 - (4) Compatibility with surrounding land uses; and
 - (5) Adequate mitigation of adverse impact on nearby properties or neighborhoods, including but not limited to traffic, noise, odors, vibrations and property values.

7.16.110 Appeal and Variance.

In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of the Development Code as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this Section to allow variances in the classification of uses of property.

- (a) **Review Procedures.** Applications for an appeal or variance to the Board of Adjustment (BOA) shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, Table 7.16-1, Review Process Chart, and as may be further described herein. Appeals and applications for variances may be initiated by the owner of property for which a variance is desired.
- (b) **Appeal Procedures.** This Section sets forth the procedures to appeal a decision of the Manager which is made pursuant to this Development Code. Only a final decision of the Manager may be appealed. Recommendations to a decision-making authority are not subject to appeal.
- (1) An appeal may be submitted by an applicant for a development approval or by a Council member.
 - (2) The appellant must provide a written request for appeal of a decision of the Manager to the Town Clerk within ten (10) days after the date of the decision. The appellant shall file the Notice of Appeal on a form provided by the Town Clerk and shall pay the adopted fee for the Notice of Appeal. Failure to file a complete and timely Notice of Appeal shall be considered a waiver of the appellant's rights to appeal to the BOA.
 - (3) The BOA shall conduct a public hearing within forty-five (45) days of receipt of a written request for appeal.
 - (4) Written notice of the public hearing date, time and location shall be mailed to the appellant via first-class U.S. mail at least five (5) days prior to the public hearing, unless the appellant agrees to a shorter time frame and a different notification method.

(c) **Appeal Review Criteria.**

The BOA, in hearing an appeal from an interpretation of the Development Code or decision of the Manager, shall consider:

- (1) The technical meaning of the provision being appealed;
- (2) Evidence of the manner in which the provision has been interpreted in the past;
- (3) The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives and purposes of this Development Code; and
- (4) The intent of the provision in implementing the Master Plan.

In approving a requested interpretation, the BOA shall provide a written record of its findings and the Town Staff shall use it to propose amendments that address future interpretation problems.

(d) **Variance Application Limitations.** The BOA shall not grant a variance which:

- (1) Permits a land use not allowed in the zoning district in which the property is located;
- (2) Is in the public right-of-way or on a public property without a valid license or permit;
- (3) Alters any definition of the Development Code;
- (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the Development Code;
- (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to the Development Code (in which case the BOA will recommend a text amendment to the Development Code);

- (6) Is based exclusively on findings of personal or financial hardship (convenience, profit or caprice shall not constitute undue hardship); and
 - (7) The variance will neither result in the extension of a nonconforming situation, use, building or lot, nor authorize the initiation of a nonconforming use of land, nor conflict with the goals and policies of the Master Plan.
- (e) **Variance Review Criteria and Required Findings.** The BOA shall make the following written findings before granting a variance:
- (1) That there are unique physical circumstances or conditions of the land such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition of the land particular to the affected property;
 - (2) That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the Development Code;
 - (3) That such unique physical circumstances or conditions are unique and unusual or nearly so, rather than one shared by many surrounding properties;
 - (4) That due to such unique physical circumstances or conditions of the land, the strict application of the Code would create a demonstrated hardship;
 - (5) That the demonstrable hardship is not self-imposed;
 - (6) That the hardship or poor land use of which the applicant complains is one suffered by the applicant alone and not by neighbors or the general public;
 - (7) That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;
 - (8) That the variance, if granted, will not change the character of the zoning district in which the property is located;
 - (9) That the variance, if granted, is consistent with the purposes of the Development Code;
 - (10) That the variance, if granted in a floodplain or floodway, meets the requirements of floodplains and floodways of this Code and any other applicable law, and
 - (11) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Town.

(f) **Minor Variance.**

A request may be made to the Manager for the approval of a Minor Variance to certain provisions of this Development Code. Such request shall be processed as an Administrative Permit as set forth in Table 7.16-1, Review Process Chart, except an appeal of a denial of approval of a Minor Variance by the Manager shall be made to the BOA pursuant to the procedures and standards of Subsections 7.16.110(a)(b)(c) above.

- (1) **Applicability.** A minor variance is limited to the following situations:
 - (i) The location and height of fences or sheds (outbuildings) on a particular lot;
 - (ii) The construction of open or closed porch additions to residential properties. Porch additions designed as sleeping rooms (bedrooms) are specifically excluded from this category;

- (iii) Residential driveway dimensional and location standards; and
- (iv) The maximum allowable area for a sign or for the installation of a sign not expressly permitted pursuant to the sign standards of Chapter 7.28.

All requests other than those listed above must meet comply with the limitations and review criteria set forth in Sections 7.16.110 (d) and (e) above.

(2) Review Criteria. Criteria for granting a Minor Variance shall include meeting all of the following conditions:

- (i) The variance being requested meets the predominant setback line established on the basis of the average of existing front yard setbacks within the block frontage of the request, and the opposite block frontage;
- (ii) That the variance, if granted, will not adversely affect the proposed development or use of adjacent properties or the neighborhood; and
- (iii) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of the Town.

(g) Variance Conditions. A variance granted by the BOA or Manager, as applicable, may contain limitations as to time or disposition or use of the tract in question in order to ensure that the stated purpose of the variance request is realized.

(h) BOA Review and Action.

The following requirements apply to BOA review and decision of appeals and variance applications:

- (1) The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the BOA.
- (2) The BOA shall have all the powers of the applicable Town administrative official on the action appealed. The BOA may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.
- (3) The BOA may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of the Development Code.
- (4) The BOA may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested. A variance may be granted for indefinite duration or a specified period of time.
- (5) No single decision of the BOA sets a precedent. The decision of the BOA shall be made on the particular facts of each case.
- (6) Variances granted by the BOA shall be recorded with the Routt County Clerk and Recorder at the expense of the applicant.
- (7) Any appeal of the decision of the BOA may be made to the District Court as provided by law; provided however, that such appeal must be made prior to twenty-eight (28) days following the date of the final action taken by the BOA, as provided by Rule 106, Colorado Rules of Civil Procedure.
- (i) **Action Notice.** The Manager shall notify the appellant or applicant for a variance in writing of the BOA's action within five (5) days after a decision has been rendered.

- (j) **Expiration.** The variance approval expires if any required building permit is not obtained within one (1) year of the approval.

7.16.120 Appeals to Council.

This Section sets forth the procedures to appeal the decision of the Manager or Planning Commission, where such appeal right to Council is identified in Table 7.16-1, Review Process Chart, or elsewhere in the Development Code.

- (a) **Review Procedures.** Applications for an appeal shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Appeals may be initiated by the owner of property.
- (b) **Review Authority.** The Council shall review and render a decision on an appeal after conducting a public hearing. Notification of the public hearing shall be provided by mailing, publishing and posting in the same manner as was required for the original application's consideration. The decision of the Council may be appealed to District Court.
- (c) **Appeal Procedures.** Only a final decision of the Manager or Planning Commission may be appealed. Recommendations to a decision-making authority are not subject to appeal.
 - (1) An appeal may be submitted by an applicant for a development approval or by a Council member.
 - (2) The appellant must provide a written request for appeal of a decision of the Manager or Planning Commission to the Town Clerk within ten (10) days after the date of the decision. The appellant shall file the Notice of Appeal on a form provided by the Town Clerk and shall pay the adopted fee for the Notice of Appeal. Failure to file a complete and timely Notice of Appeal shall be considered a waiver of the appellant's rights to appeal to Council.
 - (3) The Council shall conduct a public hearing within forty-five (45) days of receipt of a written request for appeal.
 - (4) Written notice of the public hearing date, time and location shall be mailed to the appellant via first-class U.S. mail at least five (5) days prior to the public hearing, unless the appellant agrees to a shorter time frame and a different notification method.
- (d) **Appeal Review Criteria.** The Council shall use the applicable review criteria to the decision that is appealed. The Council shall review decisions *de novo*.
- (e) **Council Decision Final.** A decision of the Council is final. An aggrieved person may appeal a decision of the Council to the District Court or to another state or federal court of competent jurisdiction.
- (f) **Decision.** The Council shall, in writing, confirm, modify or reverse the decision within thirty-five (35) days of holding the public hearing on the appeal. Any decision by the Council that results in action modifying or reversing the decision of a Town body or officer shall describe the specific reasons for the modification or reversal. Action of the Council shall become final immediately. Failure of the Council to act within thirty-five (35) days after holding the public hearing shall be deemed action confirming the decision unless the applicant consents to an additional time extension.

7.16.130 Alternative Design.

Alternative design is a procedure that allows development to meet the intent of the design-related provisions of this Chapter through an alternative design. It is not a general waiver or weakening of regulations; rather, this application procedure permits a site-specific plan that is equal to or better than the strict application of a design standard in Chapter 7.24 of this Development Code. This procedure is not intended as a substitute for a variance or administrative modification or a vehicle for relief from standards in this Development Code. Alternative Design shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

- (a) **Applicability.** The Alternative Design procedure shall be available for any design, development or standard set forth in Chapter 7.24, Design Standards, of this Development Code.
- (b) **Review Procedures.** Applications for alternative equivalent compliance shall be processed concurrently with the underlying development application for which Alternative Design with the applicable design standards is desired and shall follow the procedures for such underlying development application. Applications for Alternative Design may be initiated by the owner of property for which Alternative Design is desired.
- (c) **Review Criteria.** The review authority shall use the following review criteria as the basis for a decision on an application for Alternative Design:
 - (1) The proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;
 - (2) The proposed alternative achieves the goals and policies of the Master Plan to the same or better degree than the subject standard;
 - (3) The proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and
 - (4) The proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this Title.
- (d) **Conditions.** The reviewing authority may recommend or impose conditions on an approval for Alternative Design provided that such conditions are related to ensuring the performance of the Alternative Design to meet or exceed the subject standard. Such conditions may include performance guarantees, required timeframes or the ability to revoke an approval for Alternative Design.
- (e) **Effect of Approval.** Alternative Design shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

7.16.140 Right-of-Way Vacation.

The purpose of this Section is to provide procedures and standards for the vacation of rights-of-way in the Town. The procedures and authority set forth in Section 43-2-301, et seq., C.R.S., shall apply unless in conflict with any specific provision set forth in this Section. Public easements are also considered rights-of-way that may be vacated pursuant to this Section.

- (a) **Definitions Incorporated.** The definitions set forth in Section 43-2-301, C.R.S., are incorporated in this Section.

- (b) **Review Procedures.** Applications for the vacation of a right-of-way shall follow the general review procedures set forth in Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Applications for vacation of a right-of-way may be initiated by the Council or by a property owner abutting the right-of-way proposed for vacation. Applications to move or alter a right-of-way shall be processed as a subdivision application concurrently with a right-of-way vacation application, in which case the ordinance approving the vacation of a right-of-way or portion thereof shall also approve a Final Plat which results in the dedication of the moved or altered right-of-way or portion thereof. Public easement vacations can be processed concurrently with a major or minor subdivision application. Vacation of a right-of-way shall be approved by an ordinance of the Council.
- (c) **Review Criteria.** The Council shall use the following review criteria as the basis for a decision on an application to vacate a right-of-way:
- (1) No right-of-way shall be vacated so as to leave any land adjoining the vacated right-of-way without an established public road or private-access easement connecting said land with another established public road;
 - (2) The right-of-way is determined to be platted on terrain which is not practical for the construction of a right-of-way due to terrain, topography, natural features or other constraints, and the right-of-way does not provide any other potential benefit to the public including, but not limited to, utility connections, pedestrian or recreation connections, drainage or public landscaping;
 - (3) Sufficient easements for utilities, access or other purposes are retained;
 - (4) Compensation may be required for the area of vacated right-of-way based upon the fair market value per square foot of the area vacated and the applied zoning; and
 - (5) The vacated area of right-of-way shall be included in the same zone district as the abutting property to which the vacated right-of-way vests.
- (d) **Recording.** The ordinance vacating a right-of-way shall be recorded in the office of the Routt County Clerk and Recorder and shall reference any exceptions, easements or reservations of the vacation.

7.16.150 Annexation

- (a) **Purpose.** The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the *Colorado Municipal Annexation Act of 1965 (Act)*, as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the Act, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that Act, or any requirements set forth in other portions of the Hayden Town Code. In the event of a conflict between the Act, the provisions of this Article or any requirements set forth in other portions of the Hayden Town Code, it is the expressed intent of the Council that the more stringent provision shall control.
- (b) **Statement of Policy and Review Criteria.** It shall be the general policy of the Town with respect to annexations, the annexation application, and the consideration of annexation petitions that:
- (1) Annexation is a discretionary act. With the exception of a petition initiated by the Town for the annexation of an enclave, the Council shall exercise its sole discretion in the annexation of territory to the Town.

- (2) The land to be annexed and the uses proposed for the land shall conform to the goals, policies and strategies of the Master Plan and to the land uses depicted on the Proposed Land Use Map, as amended.
 - (3) Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town in order that the public needs may be served by such facilities. These facilities include, but not by way of limitation, arterial streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites, and storm drainage facilities. The annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.
 - (4) The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation applications and petition, from initial discussion with Town Staff before submittal of the petition, through the approval and recording of the final annexation documents.
 - (5) Annexed areas will not divide tracts of land to prevent further annexation of adjoining parcels. (For example, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property.)
 - (6) All water rights shall be deeded to the Town at the time of annexation.
 - (7) The property owner shall have complied with the Annexation Application requirements of this Article prior to submitting an annexation petition.
- (c) **Procedure.** Annexation applications shall be processed and considered as follows:
- (1) Step 1: Annexation Pre-application Conference. The application process begins with a Pre-application Conference with Town Staff to determine the feasibility of the annexation request. Following this informal meeting, the applicant may submit a Letter of Intent requesting annexation, the Annexation Application as described in this Article, the completed Annexation Application form, maps and supporting documents.
 - (2) Step 2: Town Evaluation of Annexation Application. Town Staff shall analyze the feasibility of annexing the proposed property, including but not limited to, the ability to serve with streets, water, sanitary sewer, storm sewer, parks and recreation, schools, police and fire protection; compliance with the Master Plan; sources of revenue from the property; the Town's costs to serve the proposed development; and any other related matters.
 - (3) Step 3: Annexation Agreement. The Town Staff and the property owner(s) shall negotiate an annexation agreement addressing the items of concern in the Staff evaluation and other applicable requirements of this Development Code. The draft agreement acceptable to the property owner shall accompany any annexation petition filed with the Town.
- (d) **Annexation Petition.** Annexation petitions shall be processed and considered as follows:
- (1) Step 1: Annexation Petition Certification and Completion. The petition for annexation or petition for election, annexation agreement, proposed Annexation Impact Report, and all other documents submitted shall be reviewed by Staff for completeness and compliance with the provisions of the Act and the Hayden Town Code. The applicant shall be notified within a reasonable time of any deficiencies or inadequacies in the materials submitted. An incomplete submission shall not be processed, nor referred to the Council for a determination of substantial compliance.

- (2) Step 2: Annexation Petition Referral to Council. Upon Staff's determination that the petition and supporting documentation are complete and in compliance with provisions of the Act, and the Hayden Town Code, the Town Clerk shall refer the petition to the Council.
- (3) Step 3: Council Determination of Substantial Compliance. The Council shall take the appropriate steps to determine if the petition is in substantial compliance with the Act.
 - (i) If the petition is found to be in substantial compliance with the Act, the Council may, by the adoption of a Resolution of Substantial Compliance, set the annexation (and zoning if requested) for public hearing on a specified date, time, and place, not less than (30) thirty days nor more than (60) sixty days from the effective date of the Resolution, subject to compliance with C.R.S. § 31-12-108.
 - (ii) If the petition is found to not be in compliance with the Act, no further action shall be taken, except that the determination shall be made by a resolution adopted by the Council.
- (4) Step 4: Planning Commission Review and Recommendations. The Planning Commission shall consider the petition for annexation at a regular or special meeting to be held prior to the date of the public hearing before the Council. If an application for zoning of the property is requested concurrently with the annexation, the Planning Commission shall give notice and hold the public hearing on the zoning of the property at the same meeting and in compliance with Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart.

The Planning Commission, upon the conclusion of the meeting at which they consider the petition, shall recommend approval of the petition for annexation with or without conditions, or recommend denial. If zoning of the property is requested at the time of annexation, the Planning Commission shall recommend to the Council approval with or without conditions, or recommend denial of the requested zoning.
- (5) Step 5: Council Public Hearing and Action on the Annexation.
 - (i) The Council shall hold the public hearing on the petition for annexation, and zoning, if requested in conjunction with the annexation. The petitioners shall present evidence in support of the petition and zoning, if applicable. Town Staff shall testify as to the elements required by statute to be present for annexation and any comments received from governmental entities affected by the annexation. Any person may appear at the hearing and present evidence on any matter related to the annexation petition as determined by the Council. The Council may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Council shall adopt a resolution containing the findings of fact and conclusions, including:
 - (A) Whether or not the requirements of C.R.S. § 31-12-104 and 105 and this Article have been met;
 - (B) Whether or not the Annexation Agreement is acceptable to the Town;
 - (C) Whether or not additional terms and conditions are to be imposed; and
 - (D) Whether or not an election is required, either as result of a petition for election or the imposition of additional terms and conditions.

- (ii) If the Council finds that the area proposed for annexation does not comply with the requirements of C.R.S. § 31-12-104 and 105, the annexation proceeding will be terminated.
- (iii) If the Council finds the following:
 - (A) The annexation is in compliance with the requirements of C.R.S. § 31-12-104 and 105;
 - (B) That an election is not required under C.R.S. § 31-12-107 (2); and
 - (C) No additional terms and conditions are to be imposed;

Council may annex the land by an ordinance without election and approve the Annexation Agreement. The zoning of the property, if requested with annexation, shall be approved by a separate ordinance. If the Council, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by a resolution.

(e) Post Approval Actions

- (1) After final passage of the annexation ordinance, the applicant shall file with the Town final versions of all applicable documents including a mylar of the annexation map(s).
- (2) In the event that zoning was requested with the annexation, zoning shall be granted by an ordinance and the official zoning map shall be amended accordingly. In the event that zoning was not requested with annexation, the Town shall bring the area annexed under the zoning ordinance and map within ninety (90) days after the effective date of the annexation ordinance in the manner provided by this Development Code. In the event that the property owner does not request and process its zoning request within such ninety (90) day period, the zoning of the annexed property shall be deemed to be Open (O) Zone District as defined in this Code.

7.16.160 Vested Property Right.

The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.

- (a) As used in this Section, unless the context otherwise requires:
 - (1) *Community planning document* means the Master Plan, any other planning documents adopted by the Town through a public hearing process and any planning document adopted by other governmental and quasi-governmental entities that provide public services or facilities to the Town or which include the Town within their service or planning boundaries.
 - (2) *Site specific development plan* means a planned unit development plan or any amendment thereto, approved pursuant to Section 7.16.070, Planned Unit Developments, together with a development agreement approved pursuant to this Development Code. A site specific development plan that creates vested property rights may also include other development approvals if approved at the discretion of the Council upon request by a property owner; however, such request shall not result in an application for a development approval other than a planned unit development plan to be treated as a site specific development plan for the purposes of Section 24-68-102.5(1), C.R.S.

- (3) *Vested property right* means the right to undertake and complete the development and use of property under the express terms and conditions of a site specific development plan.
- (b) **Vested Property Right Created.**
- (1) A vested property right shall be deemed to have been created only upon the approval of a site specific development plan in accordance with this Chapter.
- (2) A vested property right shall only be created if approved by an ordinance which may be combined with an ordinance approving a site specific development plan and an accompanying development agreement. Amendments to any site specific development plan shall be subject to this Chapter and shall have a new vested property right as determined by the Council. Any approval of a site specific development plan or amendment to an existing site specific development plan that creates vested property rights shall be adopted by an ordinance as a legislative act and shall be subject to referendum. When creating a vested property right, Council may expressly exempt, in whole or in part, administrative amendments to site specific development plans from additional review and approval by Council under this Chapter.
- (3) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the Town including, but not limited to, the regulations contained in Title 15, Building Codes, of the Hayden Municipal Code, regulations concerning subdivision improvements and right-of-way dedications and regulations establishing requirements and specifications for any public infrastructure or public facility improvements. Ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the Town shall not be deemed to alter, impair, prevent, diminish, impose a moratorium on development or otherwise delay the development or use of a property with vested property rights regardless of the financial impact of such ordinance or regulation.
- (4) The establishment of a vested property right shall not preclude the application of any legislatively adopted fees which are general in nature, uniform in character and applicable to all properties or a similarly situated class of properties.
- (c) **Notice and Hearing.** No site specific development plan or the extension of the duration vested right thereof shall be approved until after providing notice and conducting public hearings in compliance with Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart..
- (d) **Notice of Approval.**
- (1) Each map, plat, site plan or other document constituting a site specific development plan shall contain the following language:
- (i) Approval of this plan constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended and Title 7, Chapter 16, of the Hayden Municipal Code, as amended.
- (2) The failure of the document constituting a site specific development plan to contain the language specified in Subparagraph (d)(1)(i) above shall invalidate and void the creation of the vested property right. A notice stating that a vested property right has been created shall be published once by the Town in a newspaper of general circulation in the Town not more than fourteen (14) days after final adoption of the ordinance approving the site specific development plan. The notice shall include the following information:

- (i) A statement advising the public of the site specific development plan approval, including the name of the project, the type and intensity of the use approved and the specific property or development parcels affected;
- (ii) A statement that a vested property right has been created in accordance with Article 68 of Title 24, C.R.S., as amended, and Title 7, Chapter 16, of the Hayden Municipal Code, including the duration of the vested property right; and
- (iii) A statement that the citizen's rights of referendum shall run from the date of publication.

(e) Duration of Vested Right.

- (1) A property right vested pursuant to this Chapter after June 1, 2006, shall remain vested for a period of three (3) years. The Council may approve a period of vested property rights exceeding three (3) years by approval of a development agreement, which shall be part of the site specific development plan.
- (2) The guidelines in this Paragraph shall be considered when determining whether to grant vested property rights for a period greater than three (3) years, provided that site specific development plans that are granted vested property rights for a period greater than three (3) years because of the size, phasing or absorption rate of such site specific development plan should have separate vesting created for the various phases of the development, as set forth in Subsection (4) below. It shall be the burden of the applicant to propose appropriate reasons for granting a vested property right that is greater than three (3) years.
 - (i) The size and phasing of the development, specifically, but not limited to, whether the development can be reasonably completed within the vested rights period;
 - (ii) Economic cycles and specifically, but not limited to, community economic cycles, regional and state economic cycles and national economic cycles;
 - (iii) Market conditions and specifically but not limited to absorption rates for leasing and sales of similar development projects;
 - (iv) Compliance with the Master Plan and other community planning documents;
 - (v) Proposed public amenities and benefits that enhance the project and the overall attractiveness of the Hayden community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe and phasing with development;
 - (vi) Projected public financial benefits or costs estimated to be caused by the development project, including the timeframe for realization by the Town or other public entities and potential costs for operation and maintenance of any new public amenities or infrastructure dedicated to the Town or other public entities;
 - (vii) The breadth and scope of the requested vested property right, including but not limited to the extent to which such vested property right restricts the Town's ability to apply future legislatively adopted fees and regulations for the purpose of providing public infrastructure, public services and public facilities and for the purpose of meeting evolving community needs;
 - (viii) The terms of any existing site specific development plans with development agreements for the applicant's property that specify the duration of vested property rights;

- (ix) Any proposed modifications to previously approved vested property rights to address changed conditions within the Hayden community, compliance with the Master Plan and other community planning documents or performance of previously approved site specific development plans; and
 - (x) Any other factors deemed relevant by the Council when determining to grant a vested property right for a period greater than three (3) years.
- (3) The Town may approve a site specific development plan subject to such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare of the Hayden community.
 - (4) Any site specific development plan for a multiple-phase development approved June 1, 2006, may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Council. Such review shall include but not be limited to whether the landowner, developer, successors or assigns are in compliance with its obligations to the Town, including but not limited to the terms and conditions of a site specific development plan, a development agreement and any other agreements between the landowner, developer, successor and assigns and the Town, as they may have been amended from time to time.

(f) Disclosure of Previously Granted Vested Property Rights and Hazards.

- (1) Any petition for annexation to the Town shall describe all vested property rights approved by any local government in effect at the time of the petition, if any, and shall be accompanied by all site specific development plans approved by any local government. Failure to so identify any previously approved vested property right and provide all approved site specific development plans shall constitute a waiver of the vested rights created by any other local government upon annexation to the Town unless specifically provided otherwise in the ordinance of annexation adopted by the Town.
- (2) The applicant shall be required to include with any plans submitted for approval as a site specific development plan notice of any natural or manmade hazards on or in the immediate vicinity of the subject property which are known to the applicant or could reasonably be discovered at the time of submission of the plan. Should a hazard on, or in the immediate vicinity of, the property be discovered subsequent to the approval of a site specific development plan which would impose a serious threat to the public health, safety and welfare and is not corrected by the applicant, the vested property right created by such site specific development plan shall be forfeited by the applicant.

(g) Forfeiture of Vested Property Rights.

- (1) Failure to abide by the terms and conditions of a vested property right will result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.
- (2) The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the Council stating the grounds therefor.
- (3) No vested property right shall be deemed forfeited until after providing notice and conducting a public hearing in accordance with Section 7.16.020, General Procedures and Requirements, and Table 7.16-1, Review Process Chart. Notice shall be mailed to the property owner to the address of record according to the County Assessor's records via first-class United States mail at least

thirty (30) days prior to the date of the hearing. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner.

- (4) At the hearing, the Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a vested property right. The Council may continue the public hearing to allow additional evidence to be gathered and presented.
- (5) If the Council finds a failure to abide by the terms and conditions of the vested property right, the Council may take action by an ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way or other lands or easements previously dedicated or conveyed to the Town or other public entities pursuant to the terms of a site specific development plan. Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.

Table 7.16-1 Review Process Chart

Requirements for all applications prior to processing:									
Pre-application Conference with Town Planner and involved agency representatives to review approval process and submittal requirements (unless waived by Town Manager) Submittal of a complete application (application completeness to be determined by Town Manager or Designee) Payment of all required fees						Key	BP - Building Permit	TM – Town Manager or Designee	
						PC – Planning Commission		PH – Public Hearing	
						TC – Town Council		PM – Public Meeting	
						BOA – Board of Adjustment		ROW – Public Right of Way	
Approval Requested	Notice Requirements				Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published	Referral					
Minor Use Permit; Building Permit Review					TM		TC	Minor Use Permit Issued or BP Permit Sign-Off	
Administrative Permit	At least 10 days prior to decision within 150 feet of Property	At least 10 days before PC PH in designated Town posting places	At least 10 days prior to decision	At least 14 days prior to decision	TM		TC	Administrative Permit Issued	TM may refer application to PC and/or TC for a final decision Minor Variances are appealed to the BOA
Conditional Use Permit (CUP)	At least 30 days before PC PH within 300 feet of Property	At least 10 days before PC PH in designated Town posting places and on the Property	At least 10 days before PC PH	At least 30 days before PC PH	TC	PC – PH (recommendation to TC) TC – PH	District Court	TC Resolution	Minor Amendments to CUP or Site Plan approval may be made through the Administrative Permit process
Site Plan Review	At least 10 days before PC PH within 150 feet of Property	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 14 days before PC PH	PC	PC - PH	TC	Letter from Town; BP Sign-Off	
Alternative Design	As set forth for the underlying development application								Processed concurrently with the underlying development application; site specific
Vacation of ROW or Public Utility Easement	At least 10 days before TC PH within 150	At least 10 days before TC PH in designated Town	At least 10 days before TC PH	Courtesy : At least 10 days	TC	TC – PM & First reading of Ordinance TC – PH & Second reading of Ordinance	Per Town Charter	Record Ordinance and Final Plat, if any	Alteration or moving of a ROW or easement must include a Final Plat (concurrent process)

Table 7.16-1 Review Process Chart									
Requirements for all applications prior to processing: Pre-application Conference with Town Planner and involved agency representatives to review approval process and submittal requirements (unless waived by Town Manager) Submittal of a complete application (application completeness to be determined by Town Manager or Designee) Payment of all required fees						Key	BP - Building Permit	TM – Town Manager or Designee	
						PC – Planning Commission		PH – Public Hearing	
						TC – Town Council		PM – Public Meeting	
						BOA – Board of Adjustment		ROW – Public Right of Way	
Approval Requested	Notice Requirements				Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published	Referral					
	feet of Property	posting places		prior to TC PH					
Master Plan Amendment		At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 14 days before PC PH	TC after review and recommendation by PC	PC – PH (recommendation to TC) TC – PH	District Court	TC Resolution	May be initiated by Council, any registered voter of or property owner in the Town
Code Text Amendment		At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 14 days before PC PH	TC after review and recommendation by PC	PC – PH (recommendation to TC) TC – First reading of Ordinance at PM TC - Second reading of Ordinance at PH	Per Town Charter	Record Ordinance	May be initiated by staff, PC, TC or a member of the public
Zoning Change	At least 10 days before PC PH within 150 feet of Property	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 21 days before PC PH	TC after review and recommendation by PC	PC – Public Hearing (recommendation to TC) TC – First reading of Ordinance at PM TC - Second reading of Ordinance at PH	Per Town Charter	Record Ordinance	May be initiated by PC, TC or the property owner
Administrative PUD Amendment					TM		TC	Letter from Town; Record Final PUD Plan within 30 days of TM approval, as applicable	
Minor PUD Amendment	At least 10 days before PC PH within 150	At least 10 days before PC PH in designated Town	At least 10 days before PC PH	At least 21 days before PC PH	TC after review and recommendation by PC	PC – PH (recommendation to TC) TC – PH	District Court	TC Resolution; Record Amended Final PUD Plan within 30 days of TC approval	

Table 7.16-1 Review Process Chart

Requirements for all applications prior to processing:									
Pre-application Conference with Town Planner and involved agency representatives to review approval process and submittal requirements (unless waived by Town Manager)						Key	BP - Building Permit	TM – Town Manager or Designee	
Submittal of a complete application (application completeness to be determined by Town Manager or Designee)						PC – Planning Commission		PH – Public Hearing	
Payment of all required fees						TC – Town Council		PM – Public Meeting	
						BOA – Board of Adjustment		ROW – Public Right of Way	
Approval Requested	Notice Requirements				Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published	Referral					
	feet of Property	posting places							
Major PUD Amendment									Follow process for Preliminary & Final PUD Plans
Preliminary PUD	At least 10 days before PC PH within 150 feet of Property	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 21 days before PC PH	TC after review and recommendation by PC	PC – PH (recommendation to TC) TC – PH	District Court	Letter from Town	Preliminary subdivision must be filed if concurrently subdividing. PUD Overlay Zoning Change required. Complete Final PUD application filed within 6 months; may be extended an additional 6 months by PC or longer by TC
Final PUD	At least 10 days before PC PH within 150 feet of Property	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 21 days before PC PH	TC after review and recommendation by PC	PC – PH (recommendation to TC) TC – PH (At request of applicant, no PHs may be required for Final PUDs that include only minor changes as may be approved by TM)	District Court	Record Final PUD Plan within 30 days of TC approval	
Variance & Appeal	At least 10 days before BOA PH within 150 feet of Property	At least 10 days before BOA PH in designated Town posting places	At least 10 days before BOA PH	At least 14 days before BOA PH	BOA	BOA – PH	District Court	Letter from TM within 5 days of decision	Additional standards may apply per Section 7.16.110 Minor Variances are processed as Administrative Permits
Historic Site Designation		At least 10 days before Historic Commission (HC) PH in	At least 10 days before HC PH		TC (Historic Commission is the PC)	HC – PH TC – PH	District Court	Resolution recorded in Routt County Clerk & Recorder Office records	

Table 7.16-1 Review Process Chart

Requirements for all applications prior to processing:									
Pre-application Conference with Town Planner and involved agency representatives to review approval process and submittal requirements (unless waived by Town Manager) Submittal of a complete application (application completeness to be determined by Town Manager or Designee) Payment of all required fees						Key	BP - Building Permit	TM – Town Manager or Designee	
						PC – Planning Commission		PH – Public Hearing	
						TC – Town Council		PM – Public Meeting	
						BOA – Board of Adjustment		ROW – Public Right of Way	
Approval Requested	Notice Requirements				Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published	Referral					
		designated Town posting places							
Location, Character and Extent Review	At least 10 days before TC PH within 150 feet of Property	At least 10 days before TC PH in designated Town posting places	At least 10 days before TC PH	At least 14 days before TC PH	PC	PC – PH	TC – PH with notice posted at least 3 days prior to PH – OR – other government with jurisdiction (see Section 7.16.100)		Applicable to public facilities (see CRS § 31-23-209)
Annexation	At least 10 days before PC PH within 150 feet of Property and abutters to any flagpole	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 21 days before PC PH	TC	PC – PM (recommendation to TC) TC – PH	District Court	Record annexation map and associated documents	Zoning Change to run concurrently
Flood Hazard Area Permit					TM		TC	Flood Hazard Area Permit issuance	
Administrative Subdivision					TM		TC	Record Final Plat within 90 days of TM approval	TM may refer application to TC for decision Administrative Subdivisions include Duplex Plat, Plat Corrections, Lot Line Adjustments or Consolidation Plats
Minor Subdivision	At least 10 days before TC PH within 150	At least 10 days before TC PH in designated	At least 10 days before TC PH	At least 14 days before TC PH	TC	TC - PH	District Court	Record Final Plat within 90 days of TC approval	Less than 6 parcels, less than 6 acres, includes no public improvements or dedication of rights-of-way

Table 7.16-1 Review Process Chart									
Requirements for all applications prior to processing: Pre-application Conference with Town Planner and involved agency representatives to review approval process and submittal requirements (unless waived by Town Manager) Submittal of a complete application (application completeness to be determined by Town Manager or Designee) Payment of all required fees						Key	BP - Building Permit	TM – Town Manager or Designee	
						PC – Planning Commission		PH – Public Hearing	
						TC – Town Council		PM – Public Meeting	
						BOA – Board of Adjustment		ROW – Public Right of Way	
Approval Requested	Notice Requirements				Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published	Referral					
	feet of Property	Town posting places							
Sketch Plan – Major Subdivision	At least 10 days before PC PH within 150 feet of Property and mineral estate owners as applicable	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH		PC	PC – PH	TC	Letter from Town	Major Subdivision is defined as a subdivision that creates more than 6 parcels, is greater than 6 acres in size OR includes dedication of public rights-of-way or construction of public improvements.
Preliminary Plan – Major Subdivision	At least 10 days before PC PH within 150 feet of Property and mineral estate owners as applicable	At least 10 days before PC PH in designated Town posting places	At least 10 days before PC PH	At least 21 days before PC PH	TC	PC – PH (recommendation to TC) TC – PH	District Court	TC Resolution	
Final Plat – Major Subdivision	At least 10 days before TC PH within 150 feet of Property mineral estate owners as applicable	At least 10 days before TC PH in designated Town posting places	At least 10 days before TC PH	At least 10 days before TC PH	TC	TC – PH	District Court	TC Resolution; Record Final Plat within 90 days of TC approval	
Vested Property Right							Per Town Charter	Record Ordinance	Extensions & Forfeitures follow same processes

Table 7.16-1 Review Process Chart									
Requirements for all applications prior to processing: Pre-application Conference with Town Planner and involved agency representatives to review approval process and submittal requirements (unless waived by Town Manager) Submittal of a complete application (application completeness to be determined by Town Manager or Designee) Payment of all required fees						Key	BP - Building Permit	TM – Town Manager or Designee	
						PC – Planning Commission		PH – Public Hearing	
						TC – Town Council		PM – Public Meeting	
						BOA – Board of Adjustment		ROW – Public Right of Way	
Approval Requested	Notice Requirements				Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published	Referral					

- Proposals to be reviewed by PC, TC and BOA will be scheduled on the first open agenda for which all notification requirements can be met; the review of any proposal may be delayed if additional information or studies are required to determine if all applicable Code standards can be met.
- Proposals must comply with all applicable standards of this Code to be approved.
- Conditions may be placed on any approval if they are deemed necessary to ensure compliance with the applicable standards of this Code.
- Permit extensions or renewals, Amendments and/or Revocations must follow same procedure as original approval unless otherwise noted.
- No process listed above shall result in a Vested Property Right except as may be provided in Section 7.16.160.
- The TM may authorize a concurrent review of any of the processes listed above provided all minimum notification requirements are met.

CHAPTER 7.20 – ZONE DISTRICTS AND OFFICIAL ZONING MAP

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7.20.010 Purpose.

This Chapter establishes the zoning districts and contains basic information pertaining to the districts. The table found at Section 7.20.170, Uses by Zoning District, identifies the uses allowed within the districts. Chapter 7.24, Development and Dimensional Standards, contains the site layout, building design and dimensional standards that apply to development in the districts.

7.20.020 Zoning Districts Established.

In order to carry out the provisions of this Development Code, the Town is divided into the following Zoning Districts:

- O** – Open District
- RLD** – Residential Low Density District
- RMD** – Residential Medium Density District
- RHD** – Residential High Density District
- MHR** – Mobile Home Residential District
- CBD** – Central Business District
- C** – Commercial District
- I-1** – Light Industrial District
- I-2** – Industrial District

7.20.030 Official Zoning Map.

- (a) The location and boundaries of the zoning districts established in Section 7.20.020, Districts Established, are set forth on the zoning district map of the Town. The Official Zoning Map, along with all of the notations, references and other information shown on the map, is hereby incorporated in and made part of this Title.
- (b) If changes are made in district boundaries or other items portrayed on the official zoning district map in accordance with the procedures established in this Code, the changes shall be entered on the map.
- (c) A copy of the Official Zoning Map shall be available and on display at the Town Hall during normal business hours. In addition, one (1) copy of the Official Zoning Map, and all prior Official Zoning Maps that have been adopted, shall be held in a secure place by the Town Clerk, who shall act as custodian thereof, and the maps shall not be amended, changed, updated or otherwise modified or let out of direct control of the Town for any reason whatsoever. The secured map is to be released for inspection only upon authorization of the Town Clerk.
- (d) Zoning district boundaries are intended to be property ownership lines or lot lines; centerlines of streets, alleys or extensions thereof; channelized waterways or similar rights-of-way; the centerlines of blocks, sections or township lines; Town corporate boundaries; the centerlines of streambeds; or other lines drawn approximately to scale on the Official Zoning Map. In the event that a zoning district boundary is unclear or disputed, it shall be the responsibility of the Manager to determine the intent and actual location of the zoning district boundary.

7.20.040 Uses Permitted by Right, Minor, Administrative and Conditional Uses.

- (a) The uses permitted in each zoning district correspond to the unique characteristics of that zone district. Each zone district is intended to be consistent with and limit adverse effects and impacts in the use of the land. In all zone districts, care is taken to allow for potential development under reasonable controls. To accomplish this goal, the allowable uses are divided into four categories: uses permitted by right, minor uses, administrative uses and conditional uses. Uses for each zone district are classified into one of the four categories based on their potential impact and compatibility with other uses in that zone district. This allows for a review of the proposed land use change commensurate with its potential impact.
 - (1) Uses Permitted by Right. Uses so designated are allowed automatically, without further application or administrative review by the Town provided they are undertaken in compliance with the requirements of this Development Code. It should be noted that permits from other agencies may be required for certain uses by right, e.g. a building permit is required to construct a new single-family dwelling even though it is a use by right in certain zone districts.
 - (2) Minor Use. Uses so designated are allowed by permit only. The permit must be granted upon proof that certain conditions, development and performance standards can be met and complied with. As these uses are generally limited in impact or duration, there are no requirements to notify adjacent property owners and the permit can be issued without a Public Hearing.
 - (3) Administrative Uses. Uses so designated are allowed by permit only. The permit must be granted upon proof that certain conditions, development and performance standards can be met and complied with. These uses are generally limited in impact or duration, however they may have the potential to have significant impacts on surrounding properties. While no Public

Hearing is required to approve these uses, notification of adjacent property owners is required prior to approval.

- (4) Conditional Uses. Use so designated are allowed by permit only. The permit may be granted upon proof that certain conditions, development and performance standards shall be complied with. These uses receive the highest level of scrutiny of any of the four categories of uses including notification of adjacent property owners, review by the Planning Commission and a final decision by the Council at Public Hearings.

7.20.050 O Open District.

The intent of this district is to define and preserve the Town's agricultural heritage; to allow for larger public uses such as parks, open spaces, schools and the Routt County Fairgrounds; and to provide separation between and from potentially incompatible uses. This district is not intended for residential development. The owner of any property in the O - Open District may at any time petition to rezone the property consistent with the rezoning procedures of this Development Code.

7.20.060 RLD Residential Low Density District

The intent of this district is to build a traditional residential area of single-family and duplex units on single lots with a mixture of lot sizes and building types. The district will incorporate tree-lined local streets and a network of alleys tied to the existing street grid when possible. The RLD District encourages the creation of viable neighborhoods that connect with each other and integrate into the existing Hayden community with new streets, bikeways, sidewalks, paths and trails. RLD District residents shall have convenient access to parks, schools, open space, trails and services.

7.20.070 RMD Residential Medium Density District

The intent of this district is to provide compact residential development and transition between lower and higher density residential uses and commercial uses. The RMD District encourages the creation of viable neighborhoods that occur adjacent to community destinations (schools and parks) and at key existing and future intersections. Uses should be designed in a manner that emphasizes ease of access and compatibility between neighboring uses.

7.20.080 RHD Residential High Density District.

The intent of this district is to provide an increased level of density promoting a mix of uses, multi-family and clustered housing within walking distance to the downtown core. A mix of housing types is anticipated with this density including some inclusionary housing types (accessory dwelling units, workforce housing). Properties in this area should develop with multiple stories with street and open space designs in these areas encouraging pedestrian interaction and discouraging high automobile speeds. Multi-family residential developments shall also be designed around, or adjacent to, open space.

7.20.090 MHR Mobile Home Residential District.

The intent of this district is to provide areas for Mobile Home Parks and Mobile Home Subdivisions. Mobile homes are to be restricted to this district. This district is designed to provide orderly development of single-family residential mobile and manufactured home parks having rented lots and/or mobile home subdivisions having home-owner lots. New development shall provide neighborhood park facilities or impact fees-in-lieu. Parks should be centrally located and pedestrian accessible on land that is improved as part of the development process. Additionally, pedestrian trails that connect major destinations (shopping, schools) with parks and open space corridors shall be incorporated and designed.

7.20.100 CBD Central Business District.

The intent of this district is to support traditional downtown uses (civic, office, retail, restaurant and cultural) with historic areas to be preserved and rehabilitated. Infill development is encouraged to create a multi-block, walkable downtown area. Residential development is encouraged above the first floor or to the rear of buildings along the Jefferson Avenue/US Highway 40 corridor with residential infill (multi-story) along perpendicular streets. Rooftop amenities are encouraged to provide additional outdoor spaces in more dense environments and are not to be included within height limitations.

7.20.110 C Commercial District.

The intent of this district is to promote and provide a variety of commercial, business and residential uses heading into the historic downtown core area. These include space for professionals and tradespeople specializing in the built environment, live-work opportunities couples with elements needed for trades such as indoor and outdoor storage space, trailer/large vehicle equipment parking, and offices. Warehouses, commercial sales, construction supplies and offerings are encouraged so as to promote the Town as a center for trades commerce. Commercial areas at the gateways to Town along Jefferson Avenue/US Highway 40 should create a cohesive transition between residential and commercial properties, and use combined access points, architectural design consistent with Hayden's character (1 to 2.5 story), pedestrian and bicycle access and minimized parking visibility along the Jefferson Avenue/US Highway 40 frontage.

7.20.120 I-1 Light Industrial District.

It is the intent of this district to provide locations for a variety of workplaces including light industrial uses, research and development offices and institutions and complementary secondary uses. Additionally, this district is intended to encourage the development of planned office and business parks and to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes.

7.20.130 I-2 Industrial District.

The intent of this zoning district is to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations and complementary secondary uses. Uses in this district require good access to major arterial streets and adequate water, sewer and power.

7.20.140 AO Airport Overlay District.

The Airport Overlay (AO) District is a supplemental zone district that overlays the underlying zone districts in the vicinity of the Yampa Valley Regional Airport (YVRA) as such is shown on the Zoning Map. Besides uses identified in the most current Town-approved version of the YVRA Airport Master Plan and accessory buildings and uses incident to YVRA operations, any Use Permitted by Right or permitted use in the underlying zone districts is also permitted in the AO District so long as that use meets the special conditions and standards required in the AO District as further detailed in Chapter 7.28 as well as other applicable standards of this Development Code.

The AO District is designed to minimize exposure of residential and other sensitive land uses to aircraft noise areas, to avoid danger from aircraft accidents, to reduce the possibility for such accidents, and to restrict incompatible land uses in proximity to and within airport influence areas. It is also designed to minimize the potential negative impacts of structures and land uses on airport operations and navigable airspace.

The degree of protection provided by this overlay zone district is considered reasonable and prudent for land use regulatory purposes and is based on established parameters on control. Establishment of this zone district, however, does not imply that areas outside of the zone district will be totally free from airport and aircraft related hazards nor that all hazards within the zone district will be completely mitigated. Establishment of this overlay zone district shall not create a liability on the part of or cause any action against the Town or any officer, employee or contractor thereof for any damages that may result directly or indirectly from reliance on the provisions contained herein.

7.20.150 AGR Agri-Hood Residential Overlay District.

The Agri-Hood Residential Overlay (AGR) District is a supplemental zone district that allows for clustered development within preserved agricultural areas. An AGR District is intended to create a connection with food, conserving land while growing the community.

Preserved agricultural areas may range in size based on production goals, farm operations and management, staffing abilities and land availability with a minimum size of five (5) acres. Residential housing types should be mixed within these areas and not exceed a gross density of six (6) units per acre. Additional uses within AGR Districts may include conservation areas, protected farmland, food-production space, farm service areas, clustered homes, event space, trails, farm-to-table restaurants, farmer's markets and community and education centers. This land use designation is an overlay use in the RLD Residential Low Density District and O Open District.

7.20.160 RL Recreation Lodging Overlay District.


The Recreation Lodging Overlay (RL) District is a supplement zone district that promotes recreation opportunities and access with recreation lodging options nestled in nature, such as camping (RV and tent), yurts, guest houses and cottages and associated amenities and services. Public trails and public access to the Yampa River is required with development of these types of improvements.

7.20.170 Uses by Zone District Table.

The following table indicates which land uses are Uses Permitted by Right, which are Minor uses, Administrative uses and which are Conditional Uses. Uses not listed are prohibited. All uses Permitted by Right, Minor, Administrative and Conditional uses shall be subject to the applicable provisions of this Development Code.

Uses by Zoning District

Use Codes
R -Use Permitted by Right
M -Use Permitted by Minor Permit
A -Use Permitted by Administrative Permit
C -Use Permitted by Conditional Use Permit
 Blank Cell indicates use is not permitted. <i>Italics indicate there are specific standards for the listed use in Section(s) 7.28.</i>


Zone Districts
O – Open
RLD – Residential Low Density
RMD – Residential Medium Density
RHD – Residential High Density
MHR – Mobile Home Residential
CB – Central Business
C – Commercial
I-1 – Light Industrial
I-2 – Industrial
 Shading denotes site plan review required for all new construction or uses.

Notes
All uses are subject to the Development and Dimensional Standards in Chapter 7.24.
Specific requirements in the Development Code apply to certain uses listed below.
Allowable uses for a PUD are site specific to the PUD after review and approval of a Final PUD plan.
*Uses that include outdoor storage in the Commercial (C) zone district are also subject to Section 7.28.120 Outdoor Storage in the Commercial (C) Zone District

USE	O	RLD	RMD	RHD	MHR	CB	C	I-1	I-2
Agricultural, Resource Extraction and Related Uses									
<i>Agritourism Enterprise – less than 50 vehicle trips per day</i>	M								
<i>Agritourism Enterprise – more than 50 vehicle trips per day</i>	A								
<i>Airport facilities, public</i>	R						C	R	R
Animal boarding, small (kennels)	C						C	C	C
Animal boarding, large, including riding stables	C						C	C	C
Cultivation and storage of crops, vegetables, plants, flowers, and nursery stock; farming including but not limited to, gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plants, turf and sod	R	R	R	R		R	R	R	R
Farmers' markets	M					M	M	M	M
<i>Farm stand</i>	R	R	R	R		R	R	R	R
<i>Oil, gas and other hydrocarbon well drilling and production</i>	C							C	C
Plant nurseries and greenhouses, without retail sales	R							R	R
Plant nurseries and greenhouses, with retail sales	R					R	R	R	R
Ranching and general agriculture, except feed lots and animal sales barns	R	A	A	A				A	A
<i>Rock crushers, concrete and asphalt mixing plants, sand and gravel pits or any other such excavation or surface mining and associated equipment</i>	C								C

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*Uses that include outdoor storage in the Commercial (C) zone district are also subject to Section 7.28.120 Outdoor Storage in the Commercial (C) Zone District

USE	O	RLD	RMD	RHD	MHR	CB	C	I-1	I-2
Residential and Related Uses									
<i>Accessory dwelling</i>	R	R	R	R		R	R	C	
Boarding and rooming houses	M	A	A	C		R	R	C	
Dwellings, duplex		R	R	R		R	R		
Dwellings, mixed use						R	R	C	C
Dwellings, multi-family, up to twenty-four (24) units per building				R		R	R		
Dwellings, multi-family, senior housing, affordable (exempt from twenty-four (24) units per building)				R		R	R		
Dwelling, single-family detached	R	R	R	R		R	R	C	
Dwelling, cluster, zero lot line and attached single-family			R	R		R	R	C	
Group homes for intellectually and developmentally disabled, behaviorally or mentally ill individuals, children or senior citizens	R	R	R	R		R	R	C	
<i>Home occupation</i>	R	R	R	R	R	R	R	R	
Live/work dwellings (see Dwellings, mixed use)									
<i>Mobile homes parks and subdivisions</i>					R				
<i>Short-term rental</i>	A	A	A	A		A	A	A	
Commercial and Related Uses									
Artisan and photography studios and galleries						R	R	C	C
Auto, recreational vehicle, boat and truck sales							R	C	C
Auto, recreational vehicle, boat and truck storage								C	R
Bars and taverns						C	C	R	C
<i>Bed and breakfasts</i>	M	A	A	A		R	R	C	

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USE	O	RLD	RMD	RHD	MHR	CB	C	I-1	I-2
Commercial kitchen and catering operations (see Industrial uses, light)									
Convenience retail store						R	R	R	C
Convenience shopping center						C	R	R	C
Entertainment facilities and theaters						R	R	C	C
Equipment rental without outdoor storage							R	R	
Equipment rental with outdoor storage*							R	R	R
Equipment sales, heavy, including farm implements, heavy excavation equipment, mobile/manufactured homes								R	R
Funeral homes						R	R	C	
Golf courses	C							C	C
Grocery store, small [less than 25,000 sq. ft.]						R	R	C	
Grocery store, large [more than 25,000 sq. ft.]							R	C	
Health and membership clubs						R	R	R	R
Motel, hotel and lodging establishments						R	R	C	
Medical and dental offices and clinics						R	R	C	
Mini-storage warehouses								R	R
Motor vehicle fueling stations							R	R	R
Motor vehicle washes							R	R	R
Nightclubs							C		C
Parking garages						C	C	R	R
Parking lot, commercial	C					C	C	R	R

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USE	O	RLD	RMD	RHD	MHR	CB	C	I-1	I-2
Personal and business service shops						R	R	C	
Print shops						R	R	R	R
Professional office						R	R	R	
Recreation establishments, indoor						R	R	C	C
Recreation facilities, outdoor	C					C	C	C	
<i>Recreational vehicle (RV) parks</i>	C								
Restaurants, without drive-through facilities						R	R	R	R
Restaurants, with drive-through facilities							R	R	R
Retail establishments, large [more than 25,000 sq. ft.] with or without outdoor storage*							C	C	C
Retail establishments [less than 25,000 sq. ft.], with outdoor storage*							R	R	R
Retail establishments [less than 25,000 sq. ft.], without outdoor storage						R	R	R	R
Sexually oriented businesses									C
Supply yard (includes outdoor storage)*							R	R	R
Tourist facilities	A					R	R		
Motor vehicle service and repair, minor						C	R	C	R
Motor vehicle service and repair, major								C	R
Veterinary facilities, small animal clinics	A						C	C	R
Veterinary facilities, large animal	A							C	C
Warehouse, distribution and wholesale uses								R	R

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USE	O	RLD	RMD	RHD	MHR	CB	C	I-1	I-2
Workshops, custom small industry uses (see Industrial uses, light)									
Industrial and Related Uses									
Industrial uses, heavy									R
Industrial uses, light						C	R	R	R
Junkyard, salvage or wrecking yard									C
Manufacturing (see Industrial uses, light)									
Marijuana establishments, retail and medical (cultivation, manufacturing or testing facilities)								C	C
Recycling facility									C
Research, experimental or testing laboratories (see Industrial uses, light)									
Truck stop								C	C
Public Facilities and Related Uses									
Cemeteries and mausoleums	C	C	C	C					
Childcare center	R	R	R	R		R	R	C	C
Childcare home	R	R	R	R	R	R	R	R	
<i>Church or place of worship and assembly</i>		C	C	C		C	R		
Clubs and lodges						C	R	R	R
Community facilities		R	R	R		R	R	R	R
Electric substations and gas regulator stations	C							R	R
Fire and police stations	C					C	C	C	C
Hospitals and nursing/long-term/senior care facilities	C			C		C	C	C	

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USE	O	RLD	RMD	RHD	MHR	CB	C	I-1	I-2
Parking lot, public						C	C	R	R
Parks, open space and outdoor recreation facilities, public	R	R	R	R		R	R	R	R
Public facilities without major vehicle repair and outdoor storage facilities	R	R	R	R		R	R	R	R
Public facilities with major vehicle repair and outdoor storage facilities*	C						C	C	R
<i>Routt County Fairgrounds</i>	R								
Schools for elementary, intermediate and high school education, public or private	C	C	C	C		C	C		
Schools including colleges, vocational and technical training, public or private	C					C	C	C	C
<i>Telecommunications facilities - freestanding antennas and towers</i>	C	C	C	C	C	C	M	M	M
<i>Telecommunication facilities – co-location on buildings or permitted towers</i>	M	M	M	M	M	M	M	M	M
Transit facilities without repair or storage		A	A	A	A	A	A	A	A
Water reservoirs	C								
Miscellaneous and Related Uses									
Accessory buildings and accessory uses	R	R	R	R	R	R	R	R	R
<i>Camping, temporary</i>		M	M	M	M				
<i>Signs</i>	M	M	M	M	M	M	M	M	M
<i>Site Location Temporary Use Permit</i>	M	M	M	M	M	M	M	M	M
<i>Special Events</i>	M	M	M	M	M	M	M	M	M

Standards

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CHAPTER 7.24 – DEVELOPMENT AND DIMENSIONAL STANDARDS

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7.24.010 General Provisions

- (a) **Applicability.** All development applications shall comply with the applicable standards contained in this Chapter.
- (b) **Relation to Zone District Standards.** In the event of a conflict between a standard or requirement contained in the Chapter 7.20, Zone Districts and Official Zoning Map, and text in this Chapter 7.24, the standard in the chart in Chapter 7.20 shall prevail.
- (c) **Health, Safety and Welfare.** Every use shall be operated so that it does not pose a danger to public health, safety or welfare.

- (d) **Local, State and Federal Regulations and Standards.** Every use shall be operated in conformance with all applicable federal, state and local regulations and standards. Failure to comply with any and all applicable federal, state and local regulations and standards may be cause for review and/or revocation of any approval granted pursuant to this Development Code.

7.24.020 Dimensional and Setback Standards.

- (a) Land uses in the various zone districts shall comply with the Dimensional Standards as contained in the Table 7.24-1, Dimensional Standards, found at the end of this Chapter.
- (b) The following Setback Standards are applicable in all zone districts:
- (1) On double frontage lots, both streets shall be considered street frontages for purposes of calculating front yard setbacks.
 - (2) On corner lots, one side of the lot (generally that with the shortest length) with street frontage shall meet the applicable front yard setback.
 - (3) For purposes of setback calculations, a two-family dwelling shall be constructed as one building occupying one lot.
 - (4) On oddly-shaped lots with a dwelling sited "square" to the roadway, side setbacks may be less than required in Table 7.24-1, Dimensional Standards, but with no less than a five-foot (5') setback per each side yard.
 - (5) On a vacant lot bordered on two sides by previously constructed legal non-conforming buildings that do not meet the required front yard setback for the zoning district, the required front yard setback for the vacant lot shall be calculated as the average front yard setback of the two adjacent buildings. Where a vacant lot is bordered on only one side by such a legal non-conforming building, the required front yard setback shall be calculated as the average of the front yard setback of the adjacent building and the minimum front yard setback for the zoning district.
 - (6) Permanent features allowed within setbacks shall include:
 - (i) Cornices, canopies, eaves or other similar architectural features if they extend no more than two-feet (2') into a required setback and if they do not encroach into or overhand an easement;
 - (ii) Steps or ramps to the principal entrance and necessary landings, provided they do not extend more than six-feet (6') into the required setback;
 - (iii) Landscaping;
 - (iv) Fences and walls, subject to height and other restrictions of this Chapter;
 - (v) Utility service lines to a structure and utility lines, wires and associated structures within a utility easement;
 - (vi) Fire escapes, provided they do not extend more than six-feet (6') into the required setback;
 - (vii) Uncovered patios, porches and decks not more than thirty inches (30") above grade, provided they do not extend more than thirty percent (30%) of the required setback distance into the required setback area; and

- (viii) Open or covered patios, porches and decks attached to residential dwellings greater than thirty inches (30") in height may extend no more than five-feet (5') into a required front or rear setback or five-feet (5') into a required side yard setback adjacent to a street, provided they do not encroach into or overhang an easement or property line and do not obstruct any sight distance triangle.

7.24.030 Application of Community Design Standards

The Planning Commission and the Council will evaluate each proposal based on these principles and the context within which each project is located. The principles are intended to be specific enough to guide development, but not to preclude creative design solutions. Applicants must substantially conform to the design principles in this Chapter unless it can be demonstrated that an acceptable alternative meets one or more of the following conditions:

- (a) The alternative better achieves the stated intent;
- (b) The intent cannot be achieved by application of the principle in this circumstance;
- (c) The effect of other principles will be improved by not applying a particular principle;
- (d) Strict application or unique site features make the principle impractical.

7.24.040 Design Elements

- (a) **Compact Urban Growth.** It is important to maintain a continuity of density, diversity and interconnectedness. Urban development should occur adjacent to the Town's core so that the community's prime agricultural land remains usable, natural areas are preserved, and public infrastructure and utilities are used as efficiently as possible.
- (b) **Neighborhood Design.** Create neighborhoods, rather than residential subdivisions adjacent to one another. Neighborhoods should be organized around a strong center which may include elements such as common open space, civic and commercial or mixed uses. Strong consideration should be given to pedestrian movement, the character of streets and sidewalks as an inviting public space, and the interconnectedness of the streets both within the neighborhood and as they connect to the rest of the community. In addition, new neighborhoods should have a variety of housing sizes and types that help to create a distinct identity rather than a monotonous repetition of one or two styles.
- (c) **Streets and Sidewalks.** The streets should be tree-lined and interconnected in order to create a Master transportation network that facilitates the movement of pedestrians, cars and bicycles. Where feasible and appropriate within the downtown area, continue Hayden's existing block pattern to form a grid or modified grid pattern that is adapted to the topography, natural features and environmental considerations.
- (d) **Parks and Open Space.** Use natural open spaces and developed public space (such as parks and plazas) to organize and focus lots, blocks and circulation patterns and create an identity for each neighborhood.
- (e) **Site Design, Architecture and Landscaping.** Encourage innovative, quality site design, architecture, and landscaping in order to create new developments that can be integrated into the existing

community and reflect the traditional patterns of the region. Promote the use of native species and xeriscaping in landscaping, revegetation and reclamation.

- (f) **Environment.** New developments should be designed to fit within the environment. To the greatest extent feasible, sites should be designed to preserve natural areas and the plants and wildlife inhabiting those areas. The Town promotes the use of native species in landscaping, revegetation and reclamation.
- (g) **Water Conservation.** Use raw or non-potable water for irrigation and incorporate water saving measures in building design and landscaping. Developments are required to use storm water management techniques that address both water quality and quantity.

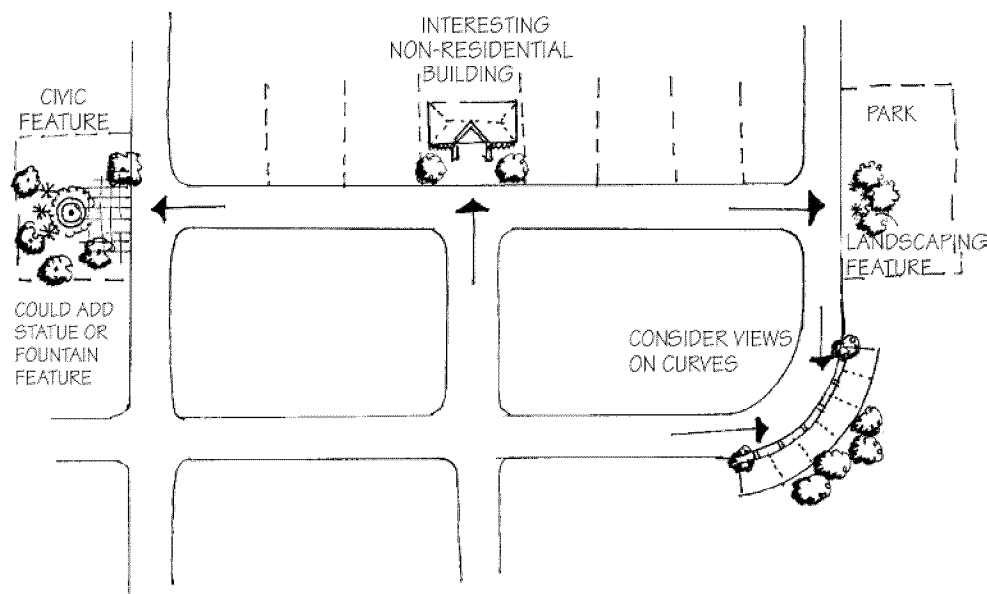
7.24.050 Compact Urban Growth

- (a) **Intent.** The Town encourages a density pattern that tapers from more intense use of the core area to lower densities on the periphery of the Town. This policy will accomplish several goals, including:
 - (1) Improving air quality by reducing vehicle miles traveled and by promoting alternatives to the private automobile;
 - (2) Preserving natural areas and features, particularly at the edges of the Town;
 - (3) Making possible the efficient use of existing infrastructure and cost-effective extensions of new services; and
 - (4) Encouraging in-fill development and reinvestment in built-up areas of Town.
- (b) **General Provisions.**
 - (1) No development shall be approved unless it is located within the established Town municipal boundary and is consistent with the Master Plan.
 - (2) The Town shall grow by designing interconnected neighborhoods. The original downtown area needs to be strengthened by the development of commercial, service and mixed-use projects.

7.24.060 Neighborhood Design Principles

- (a) **Intent.** To encourage the creation of viable neighborhoods that connect with each other and the integration of new projects into the existing community. New streets, bikeways, sidewalks, paths and trails should connect adjacent neighborhoods.
- (b) **Neighborhood Structure.** Elements to consider integrating into new neighborhoods include:
 - (1) Streets, sidewalks and trails within new neighborhoods should connect to adjacent neighborhoods and the existing town.
 - (2) Streets that encourage pedestrian activity by creating an inviting atmosphere through attention to the details of landscaping and tree locations, sidewalks, lighting, building architecture, etc.
 - (3) A mixed-use neighborhood center where appropriate.
 - (4) A variety of housing types, sizes, densities and price ranges.
 - (5) A variety of land uses that include a transition of development intensity.

- (6) Pedestrian and bike connections throughout residential neighborhoods that are linked to commercial or civic centers and open space systems.
- (7) Parks, open space and public plazas that are well integrated into the neighborhood.
- (c) **General Provisions.** The following principles contribute to Hayden's small town character. New projects will be evaluated with consideration to these existing neighborhood design principles and the context within which a project is located. Failure to incorporate these design principles into a project may be cause for denial of the project by the Town.
 - (1) Each neighborhood has a center. It is important that every neighborhood have activity centers that draw people together. Activity centers include natural features, park areas and public buildings.
 - (2) Mix of types of dwelling units. A mix of dwelling unit types shall be distributed throughout the development. Housing types and the size of lots shall be varied to enable people to remain in the neighborhood as their needs change.
 - (3) Focal points. Focal points, or points of visual termination, shall generally be occupied by more prominent, monumental buildings and structures that employ enhanced height, massing, distinctive architectural treatments, or other distinguishing features, as well as landscape features.



- (4) Public space as development framework. Public space is used to organize blocks and circulation patterns and to enhance surrounding development. Public open space must be functional and easily accessible and shall be designed to organize the placement of buildings to create an identity for each neighborhood. Buildings should face public open space.
- (5) Design streets as public spaces. Buildings shall define streets through the use of relatively uniform setbacks along each block. The streetscape shall also be reinforced by lines of shade

trees planted in the tree lawn area and may be further reinforced by walls, hedges, landscaping or fences which define front yards. On a lot with multiple buildings, those located on the interior of the site shall relate to one another both functionally and visually. A building complex may be organized around features such as courtyards, greens, or quadrangles, which encourage pedestrian activity and incidental social interaction. Smaller, individualized groupings of buildings are encouraged. Buildings shall be located to allow for adequate fire and emergency access.

- (6) Access. "Gated" neighborhoods or developments that restrict public access shall not be permitted. Privately maintained streets shall have a public access easement.
- (7) Define the transition between public and private spaces. Buildings shall be located to front towards and relate to public streets or parks, both functionally and visually, to the greatest extent possible. Wherever possible, buildings shall not be oriented to front towards a parking lot.
- (8) Encourage walking and bicycling. Sites shall be designed to minimize conflicts between vehicles, bicycles and pedestrians. Pedestrian and bicycle access and connections shall be designed to make it safe and easy to get around on foot and by bicycle.
- (9) Neighborhoods shall have a mix of activities available rather than a purely residential land use. Neighborhood residents shall have convenient access to parks, schools, open space, trails and services. The optimum size of a neighborhood is one-quarter mile from center to edge.
- (10) Fit within the environment rather than on top of it. New developments shall be designed to respond to the natural environment, fit into the setting and protect scenic view corridors.
- (11) Housing types and styles that reflect the architecture of the region. Familiar architectural styles shall play an important role in developing an architectural identity for neighborhood dwellings.

7.24.070 Lots and Blocks

- (a) **Intent.** The intent of the block and lot standards is to continue the Town's existing block pattern in a manner that is compatible with site-specific environmental conditions.

- (b) **General Provisions.**

- (1) Blocks. Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views, and other design features.
- (2) Lot dimension and configuration.
 - (i) Lot size, width, depth, shape, orientation and minimum building setback lines shall conform to this Chapter and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy and view.
 - (ii) Depth and width of properties shall be adequate to provide for off-street parking, landscaping and loading areas required by the type of use and development contemplated.
 - (iii) Lot frontage. All lots shall have frontage that is either adjacent to or directly accessible to a street. Street frontage shall typically not be less than twenty-five (25) percent of the lot depth. Flag lots are prohibited unless otherwise approved by the Council.

- (iv) Corner lots. Corner lots for residential use shall have extra width to accommodate the required building setback and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side having the shortest street frontage. In the case of a reverse corner lot, both sides abutting a street shall maintain a front yard setback.
- (v) Double frontage. Residential lots that front on two streets (double frontage) shall not be permitted.
- (vi) Side lot lines. Side lot lines shall be substantially at right angles or radial to road right-of-way lines or centerlines.

7.24.080 Access Standards.

(a) Residential lot access to adjacent street.

- (1) Driveway access to a local or collector street from a single-family detached residential lot shall be limited to one driveway curb-cut or driveway access of no greater than twenty (24) feet in width except as may be approved by a Minor Variance. A circular drive in which each access to the local or collector street is less than ten (12) feet in width, separated by at least thirty (30) feet and which is constructed as an integral part of the overall architectural design of the single-family residence may be considered as a single driveway access.
- (2) Driveway access to a local street from a single-family detached residential lot shall be greater than thirty (30) feet from the intersection of the local street and a collector street or one hundred fifty (150) feet from the intersection of the local street and an arterial street as measured from the intersecting right-of-way lines.
- (3) Driveway access to a collector street from a single-family detached residential lot shall be greater than seventy-five (75) feet from the intersection of the collector street and a local street, another collector street, or an arterial street as measured from the intersecting right-of-way lines.

(b) Commercial, business and industrial lot access to adjacent street.

- (1) Driveway access to a local or collector street from a multi-family residential, commercial, business or industrial lot shall be greater than one hundred twenty-five (125) feet from any street intersection as measured from the intersecting right-of-way lines;
- (2) Driveway access to an arterial street from a commercial, business or industrial lot shall be not less than one hundred (100) feet from any intersection on the arterial street, or from another commercial, business or industrial lot's access as measured from the intersecting right-of-way lines, or driveways; or
- (3) Driveway access to a local street, collector street or arterial street from a multi-family residential, commercial, business or industrial lot may be allowed by the Town at its sole discretion.

7.24.090 Streets

- (a) **Intent.** The intent of the street standards is to establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment.

- (b) **General Provisions.** The local street system of any proposed development shall be designed to be safe, efficient, convenient, attractive, and consider all modes of transportation that will use the system. Streets should be an inviting public space and an integral part of community design. Local streets shall provide for both intra- and inter-neighborhood connections to knit developments together. All streets should interconnect to help create a comprehensive network of public areas to allow free movement of cars, bicycles and pedestrians.
- (1) Street connections. All streets shall be aligned to join with planned or existing streets consistent with the Town Master Plan. All streets shall be designed to bear a logical relationship to the topography of the land. Intersections of streets shall be at right angles unless otherwise approved by the Town.
 - (2) Tree-lined streets. All streets shall be lined with trees on both sides with the exception of rural roads and alleys.
 - (3) Street layout. The street layout shall form an interconnected system of streets, where feasible primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. The street layout shall emphasize the location of neighborhood focus points, other internal open space areas, gateways, and vistas. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic calming features within and adjacent to residential areas shall be utilized when appropriate.
 - (4) Controlling street access. A strip of land between a dedicated street and adjacent property shall not be reserved for the purpose of controlling access to such street from such property.
 - (5) Visibility at intersections. No shrubs, ground cover, berms, fences, structures, or other materials or items greater than twenty-four (24) inches in height shall be planted, created or maintained at street intersections within the site distance triangle. Trees shall not be planted in the site distance triangle.
 - (6) Pedestrian crossings at street intersections and mid-block. Pedestrian crossings shall be accessible to handicapped individuals and mid-block crossings may be required at the direction of the Council.
 - (7) Access. Access to all subdivisions shall be from a public street system. Driveways shall not be permitted to have direct access to arterial streets or the state highway.
 - (8) Street right-of-way dedication. The full width of right-of-way for all streets being platted must be conveyed to the Town after final acceptance unless otherwise approved by the Town.
 - (9) Perimeter streets. When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat.
 - (10) Street names. Names of new streets shall not duplicate names of existing streets in Hayden. However, new streets which are extensions of, or which are in alignment with, existing streets within the Town shall bear the names of such streets. Street naming and property address numbering will be coordinated between the Applicant, Town of Hayden and Routt County.
- (c) **Street Standards.** Streets shall conform to the Routt County Road and Bridge Roadway Standards, other adopted Town construction specifications, and all other applicable laws, rules and regulations.
- (1) General design standards.

- (i) Where curb and gutter are required, it shall be constructed per the Colorado Department of Transportation specifications.
- (ii) Design of streets, curbs and gutters shall be in accordance with the Americans with Disabilities Act (ADA) standards.
- (iii) Streets shall be designed in accordance with the American Association of State Highway and Transportation Officials Policy on Geometric Design of Highways and Streets, 1990 and shall conform to the adopted Town of Hayden construction standards.
- (iv) The layout of arterial and collector streets shall conform to the criteria of the Town's Master Plan unless otherwise approved by the Council.
- (v) Where future extension of a street is anticipated but not existing, a temporary turnaround having a minimum outside diameter of one hundred and ten (110) feet shall be provided.
- (vi) The maximum allowable length of closed-end streets (cul-de-sacs) in single-family and multi-family residential developments shall be six hundred (600) feet unless otherwise approved by the Council.
- (vii) Right-of-way widths shall be specified in the Routt County Road and Bridge Roadway Standards.

(2) Arterial streets design.

- (i) Arterials shall be at a minimum of one (1) mile intervals in both north-south and east-west directions.
- (ii) Arterials shall be designed to accommodate present and future transportation requirements.
- (iii) Arterial streets shall align and connect across intersecting arterials to distribute traffic and provide continuity.
- (iv) Typical adjacent land uses to arterial streets include:

- (A) Business parks.
- (B) Community commercial.
- (C) District and community parks.
- (D) High density residential.
- (E) Industrial developments.

(3) Collector streets.

- (i) Within each one (1) mile arterial segment, collector streets shall divide the north-south and east-west arterials at approximately the half mile point.
- (ii) Intersections of collector streets and arterial streets shall be aligned to distribute traffic and provide continuity for bike routes.
- (iii) Typical adjacent land uses to collector streets include:
 - (A) Agriculture.
 - (B) Business parks.
 - (C) Community parks.
 - (D) Industrial.

- (E) Low, medium and high density residential.
- (F) Middle and high schools.
- (G) Neighborhood commercial.

(4) Local streets.

- (i) Where practical, local streets shall generally follow a modified grid pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. These streets shall generally parallel the arterial and collector street system, provide a variety of route options, interconnect to allow traffic to disperse in an equitable manner and be as narrow as possible without sacrificing the ability to accommodate expected traffic and services. Local street cross-sections will generally include a four (4) foot tree lawn adjacent to the roadway.
- (ii) Local streets must provide for both intra- and inter-neighborhood connections.
- (iii) Typical adjacent land uses to local streets include:
 - (A) Business parks.
 - (B) Elementary schools.
 - (C) Pocket parks.
 - (D) Neighborhood parks.
 - (E) Residential.

(5) Rural local street.

- (i) Rural local streets are intended to serve rural locations as may be approved by the Council.
- (ii) A driveway access crossing the borrow ditch of a rural local street shall contain a culvert of sufficient size to safely pass the designed stormwater drainage flows.
- (iii) A portion of the borrow ditch may fall outside of the rural local road right-of-way in order to obtain a borrow ditch cross-section sufficient to contain the designed storm water flows and/or to be sufficient in depth for the driveway access culvert.
- (iv) Typical adjacent land uses to rural local streets include:
 - (A) Agriculture.
 - (B) Agri-hood and estate subdivisions.

(6) Alleys.

- (i) Alleys shall be treated as public ways and any lot having access from an alley shall also front upon a public street.
- (ii) Garages, accessory dwellings above garages and rear yards may access the collector and local street system via an alley.
- (iii) Typical adjacent land uses to alleys include:
 - (A) Accessory units above garages.

- (B) Garages.
- (C) Parking lots with landscaped edges.
- (D) Rear yards.

7.24.100 Parking

- (a) **Intent.** The intent of this section is to provide adequate parking for motor vehicles while minimizing the visual impact of parking lots and structures.
- (b) **General Provisions.** In all zone districts, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the building or structures hereafter erected, altered or extended shall be provided and maintained as herein prescribed.
 - (1) Surface. All parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete or similar materials.
 - (2) Integrate parking lots with surroundings. Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian or bicycle routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of buildings and landscape frontage.
 - (3) Location. Parking lots shall be located to the rear or side of buildings or in the interior of a block whenever possible.
 - (4) Landscaping. Parking lots shall be landscaped, screened and buffered as provided in this Chapter.
 - (5) Shared-access. Where feasible, and in order to reduce traffic and vehicle turning movements on major streets, parking lots shall share access drives and cross-access easements with adjacent property with similar land uses.
 - (6) Off-street parking design. Any off-street parking area shall be designed so that vehicles may exit without backing onto a public street unless no other practical alternative is available. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility or other structure.
 - (7) Circulation area design. Circulation areas shall be designed to facilitate the safe movement of vehicles without posing a danger to pedestrians or impeding the function of the parking area.
 - (8) Striping. All parking areas shall be striped to identify individual parking spaces.
 - (9) Lighting. All parking area lighting shall be full cutoff type fixtures. Any light used to illuminate parking areas or for any other purpose shall be so arranged as to reflect the light away from nearby residential properties, and away from the vision of passing motorists.
 - (10) Shared off-street parking. When there are opportunities to support parking demand through shared off-street parking for compatible uses (such as a movie theater and an office building), a parking study and shared parking agreements shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

- (11) Adjacent on-street parking in the CBD: Central Business district. In order to promote a pedestrian scale and encourage a perception of safety in the CBD: Central Business district, parking for other than residential or overnight uses may be satisfied using adjacent on-street parking or shared rear-lot parking areas. A parking study and shared parking agreements shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

(c) Paved Off-Street Parking Requirements

- (1) Paved off-street parking shall be provided according to the minimum requirements as specified below:

USE	REQUIRED PARKING Must be outside of rights-of-way
Single-family detached dwelling units	2 spaces
Townhouse and duplex dwelling units	1 space per bedroom, up to 2 per unit
Apartment dwelling units	1 space per bedroom, up to 2 per unit
Accessory dwelling units	1 space per bedroom, up to 2 per unit
Office/business uses	1 space for every 500 square feet of gross floor area
Institutional/churches	1 space for every 4 seats in the main auditorium
Business park/industrial	1 space each for the maximum number of employees present at any one time plus space to accommodate all trucks and other vehicles used in connection with the facility
Bed and Breakfast	1 space per rental unit plus 2 spaces per residence
Business, professional or public office building, studio, bank, medical or dental clinic	3 parking spaces, plus one additional parking space for each 400 square feet of floor area over 1000 square feet;
Hotel	1 space for each sleeping room or suite, plus 1 space for each 200 square feet of commercial floor area contained therein;
Restaurant, nightclub, cafe or similar recreation or amusement establishment	1 parking space for each 100 square feet of gross leasable area;
Retail store or personal service establishment	1 parking space for each 200 square feet of gross leasable area;

- (2) Off-street parking for commercial uses shall be sufficient to provide parking for employees of all proposed uses as well as long-term customer parking. Spaces reserved for employees shall be designated as such by means of striping and signage. Parking shall be located at the rear and sides of buildings to the greatest extent possible and screened from the view of streets as provided in this Chapter. Required parking in the CBD: Central Business district can be met with on-street and shared parking for other than residential or overnight uses.
- (3) The location of required off-street parking facilities for other than residential uses shall be within six hundred sixty (660) feet of the building they are intended to serve when measured from the nearest point of the building or structure.

(d) Location of Spaces for Residential Uses.

- (1) Off-street parking facilities for residential uses shall be provided and located on the same lot as the building they are intended to serve.
- (2) Required off-street parking in residential zones shall not lie within the front yard setback or within any required side yard setback adjacent to a street. (Driveway spaces within these setbacks cannot be counted for required off-street parking.)
 - (i) Except within a garage or in conjunction with an approved affordable housing project, tandem parking is not allowed to meet required off-street parking requirements.
 - (ii) Front-loading garages shall be set back not less than twenty-two (22) feet from the back of the sidewalk and required off-street parking spaces shall not encroach upon the sidewalk or road right-of-way.

(e) Handicap Parking Spaces.

- (1) Handicap parking spaces shall be required for all retail, office, business, multi-family, industrial and institutional uses.
- (2) Handicap parking spaces shall be designated as being for the handicapped with painted symbols and standard identification signs.
- (3) Handicap parking spaces shall be located as close as possible to the nearest accessible building entrance.
- (4) Number of handicap parking spaces:

Total parking spaces in lot	Minimum required number of handicap parking spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total
1000 and over	20 plus 1 for every 100 over 1000

For every eight (8) handicap parking spaces there must be at least one (1) van accessible space. If there is only one (1) handicap parking space, that space must be van-accessible.

(f) Handicap Parking Space Dimensions

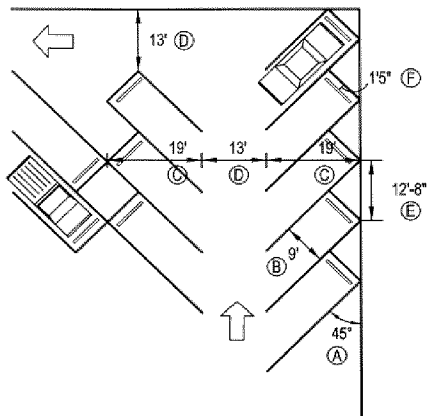
- (1) Parking spaces must be eight (8) feet by eighteen (18) feet with a five (5) foot wide access aisle.
- (2) Van-accessible spaces must be eight (8) feet by eighteen (18) feet with an eight (8) foot wide access aisle.
- (3) Parking spaces for the physically handicapped that are parallel to a pedestrian walk which is handicap accessible may have the same dimensions as those for standard vehicles.

(g) Parking Stall Dimensions. Parking stalls for automobiles shall meet the following standards. All dimensions represent the minimum requirement for any required parking space.

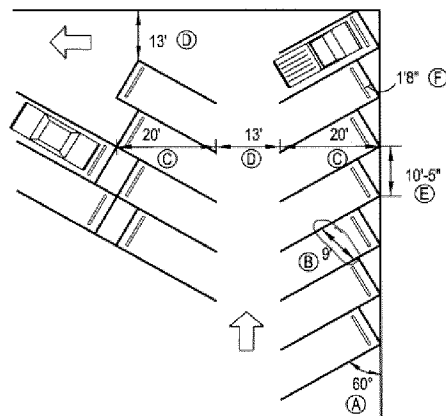
PARKING STALL DIMENSIONS					
Parking Angle (A)	Stall Width (B)	Stall to Curb (C)	Aisle Width (D)	Curb Length (E)	Overhang (F)
45°	9'	19'	13'	12' 8"	1' 5"
60°	9'	20'	13'	10' 5"	1' 8"
90°	9'	18'	24'	9'	2'
0° (parallel)	8' *	8' *	12'	24'	0'

* Except along local streets where 7' is permitted.

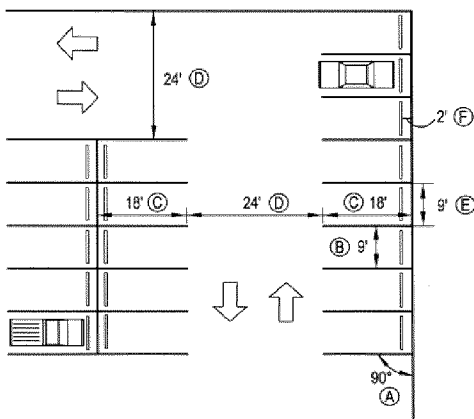
45° PARKING ANGLE



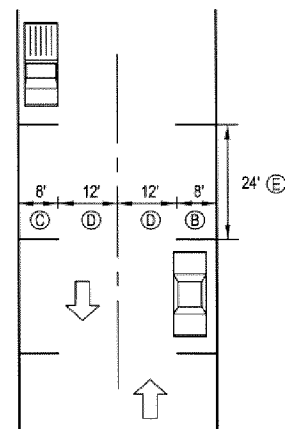
60° PARKING ANGLE



90° PARKING ANGLE



0°/PARALLEL PARKING ANGLE



- (h) **Bicycle Parking Spaces.** Commercial, industrial, civic, employment, multi-family and recreational uses shall provide bicycle facilities to meet the following standards:
- (1) A minimum number of bicycle parking spaces shall be provided, equal in number to two (2) percent of the total number of automobile parking spaces provided by the development, but not less than one (1) space.
 - (2) For convenience and security, bicycle parking facilities shall be located near building entrances. Within commercial areas, however, a grouping of spaces shall be provided as directed by the Town.
 - (3) Bicycle parking facilities shall be designed to allow the bicycle frame and both wheels to be securely locked to a structure, which is permanently attached to the pavement.
 - (4) Bicycle parking facilities shall be located so as not to interfere with pedestrian traffic or access to buildings.
- (i) **Lieu of Parking.** Within the CBD: Central Business District zone, off-street parking requirements for other than residential or overnight uses may be satisfied by payment of an in-lieu parking fee at a rate as established by the Town.
- (1) The payment shall be equivalent to the estimated cost to the Town of providing the required parking spaces to serve the proposed use and shall be in a total amount as acceptable to the Town. Such payment shall be made before issuance of a Building Permit. Fee revenue shall be deposited in the Parking Fund designated solely for the purpose of constructing, expanding, repairing, and enhancing municipal parking facilities to provide public parking.
 - (2) When an applicant wishes to offer a fee-in-lieu of parking, the applicant must coordinate with the Planning Director, Public Works Director and Town Engineer to determine how parking for the proposed use will be made available. A statement of the agreed upon plan for a fee-in-lieu of parking and manner of parking provision must be included with the application.
 - (3) Any off-street parking supplied in this manner shall run with the land (not be invalidated by change in ownership), and any subsequent change in use that requires more parking shall require subsequent action by the property owner to satisfy any additional parking requirements. No refund of any fee-in-lieu of parking shall be made when there is a change in use requiring less parking. Final acceptance of any fee-in-lieu is at the complete discretion of the Town.

7.24.110 Sidewalks/Multi-Use Pathways/Trails

- (a) **Intent.** The intent of the standards for sidewalks, multi-use pathways and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians.
- (b) **General Provisions.**
- (1) Interconnected network. A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space shall be provided throughout each development. Sidewalks shall be separate and distinct from motor vehicle circulation routes to

the greatest extent possible. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping and other street furniture where appropriate.

- (2) Sidewalks required. In all zone districts, except for the O district, sidewalks are required along both sides of a street. Within the O district, sidewalks are required along one side of the street unless the development is served by rural local streets.
- (3) Sidewalk width. Sidewalks shall be a minimum of five (5) feet wide when adjacent to local streets; a minimum of five (5) feet wide along one side and eight (8) feet wide along the other side of collector streets; and a minimum of eight (8) feet wide along arterial streets. A four (4) foot wide detached sidewalk is the preferred sidewalk alternative within local street rights-of-way. Sidewalks adjacent to storefronts in commercial areas shall be ten (10) to fifteen (15) feet in width, or consistent with the average sidewalk width on a block if building in an area with existing sidewalks.
- (4) Sidewalk location. Sidewalks shall be located within the right-of-way unless otherwise authorized by the Council.
- (5) Sidewalk materials. Sidewalks shall be constructed of concrete, brick, slate, colored/textured concrete pavers, concrete containing accents of brick, or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings. Asphalt shall not be used for sidewalks. Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles. If used as a secondary emergency access, sidewalks must also be able to support a fire truck (60,000 lbs.)
- (6) Sidewalk installation. Sidewalks and related improvements shall be installed or constructed by the subdivider in accordance with plans and specifications approved by the Town and, after installation or construction; they shall be subject to inspection and approval by the Town.
- (7) Accessibility. Sidewalks and plazas shall be accessible to disabled individuals as required by this Development Code and the Americans with Disabilities Act.
- (8) Walkways. Walkways through a subdivision block shall be not less than eight (8) feet in width, shall be within a dedicated right-of-way not less than twenty (20) feet in width, and shall be flanked with appropriate landscaping. Walkways along buildings and within parking lots shall be raised and curbed where suitable. A direct pedestrian connection to building entries, public space and parking areas shall be provided from public sidewalks. Walkways shall be constructed of the same materials as sidewalks, except that walkways internal to asphalt surfaced parking lots may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by a change in pavement color, texture or paint striping.
- (9) Lighting. All sidewalks and other pedestrian walkways shall have appropriate lighting, using poles and fixtures consistent with the overall design theme for the development.
- (10) Multi-use pathways (bikeways). Multi-use pathways shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community. Multi-use pathway routes shall be designated between residential areas and commercial and employment centers and schools. Multi-use pathways on local streets may be delineated by painted "bicycle only" lanes. Sidewalks that may be used as a multi-use pathway are required on arterial and collector streets. All other multi-use pathways shall be a minimum of eight (8) feet wide and shall be of concrete construction or where approved by the

Council, compressed gravel (crusher fines) or asphalt paving. Bike racks shall be provided at the entry to open space areas.

- (11) **Trails.** Trails shall be provided within open space areas and be designed to connect to other open space areas. Trails shall be a minimum of eight (8) feet in width. A trail may be flanked on one side by a soft surface path a minimum of four (4) feet in width. The soft surface path shall be constructed with a minimum depth of eight (8) inches of compressed gravel, and crowned and compacted with edging to contain the trail material.

7.24.120 Easement and Utility Standards

- (a) **Utility Easement Width.** Utility easements shall measure five (5) feet on each side of abutting rear lot lines. On subdivision perimeter rear lot lines adjacent to unsubdivided property, utility easements shall measure ten (10) feet in width. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use by utility companies due to drainage, irrigation ditches or other obstructions, the subdivider shall provide like width easements adjacent to said areas of obstruction. Side lot line easements, where necessary, shall measure ten (10) feet in full width; five (5) feet either side of a lot line is acceptable. Front lot line easements shall measure ten (10) feet in width. Easements may be more or less than widths stated if the specific utility indicates in writing a width other than those required by this Development Code. Utility easements shall be subject to the approval of the Town.
- (b) **Multiple Installations Within Easements.** Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.
- (c) **Underground Utilities.** Telephone lines, electric lines, cable television lines and other like utility services shall be placed underground. The subdivider shall be responsible for complying with the requirements of this Section, and shall make the necessary arrangements including any construction or installation charges with each utility provider for the installation of such underground facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing is required to the satisfaction of the Council. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Upon approval of the Town, such facilities shall be placed within easements or rights-of-way provided for particular facilities.
- (d) **Street Lighting.** Street lighting shall be installed as provided in this Development Code and in accordance with Town requirements. Associated underground lighting supply circuits shall be installed.

7.24.130 Parks and Open Space

- (a) **Intent.** To ensure that a comprehensive, integrated network of parks and open space is developed and preserved as the community grows.
- (b) **Types of Parks and Open Space.**
 - (1) **Plazas.** A plaza is typically located in a commercial or industrial area to serve as a gathering place. A plaza is usually bordered by buildings and may feature seating, formal landscape

plantings and amenities such as fountains or public art. Developers are responsible for developing and providing the appropriate amenities for each plaza.

- (2) Pocket parks. Every residential development, at Town discretion, shall either provide land for a pocket park or provide a fair share, cash-in-lieu contribution for land or improvements in a nearby park that will serve the neighborhood. This can be credited toward the land dedication required at the time of subdivision. A pocket park shall be at least one-half acre and include playground equipment, sprinklered landscaping and be maintained by a homeowner's association or the landowner.
- (3) Neighborhood parks. Every residential development shall, at Town discretion, either provide land for a neighborhood park or provide a fair share, cash-in-lieu contribution for land or improvements in a nearby park that will serve the neighborhood. This can be credited toward the land dedication required at the time of subdivision. A homeowner's association, the landowner or the Town at its discretion shall be responsible for the development and maintenance of the park. A neighborhood park shall be at least 5 acres and include active play areas and sprinklered landscaping.
- (4) Community park. Community parks serve the residents of several neighborhoods. Community parks are to be located on or near arterial streets, at the edge of residential areas or in non-residential areas. The developer shall dedicate land for, or make a cash in lieu contribution for land and improvements in accordance with the requirements of this Chapter. A community park shall be at least 20 acres and include an active play area, ball fields, and sprinklered landscaping in the majority of the park.
- (5) Trails. The trail system shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities and neighboring communities and thus provide important transportation connections as well as recreational opportunities and access. Developers must provide trail connections to both the Town's trail system and destinations within the neighborhood.
- (6) Regional open space. Hayden's regional open space system includes: drainage ways, floodplains, natural areas, natural area buffer zones, wetlands, subsidence areas, agriculture preservation areas and lands of archeological or historic significance. Public access to these areas will generally be limited to trails, educational signs and similar improvements.
- (7) Storm drainage facilities. Storm drainage facilities, including stormwater detention and stormwater retention ponds, may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately. Credit toward the open space dedication requirements will be considered on a case-by-case basis by the Council at the time of platting.

(c) General Provisions.

- (1) Open space should serve as the neighborhood focus. Open space, such as the Town drainage ways and developed parks and plazas, shall be used to organize lot, block and street patterns and to enhance surrounding developments.
- (2) Public access. Areas designated as public open space shall be both visibly and physically accessible to the community. Adequate public access shall be provided to all public open space,

natural and developed, directly from the public street and trail system. Pocket parks and plazas shall be integrated into the neighborhood design and be accessible to pedestrians and bicyclists.

- (3) Buildings shall front public open space. Development adjacent to open spaces shall front onto the area as much as possible, so that the open space areas are not enclosed by back yards. Open space and trail areas shall have a minimum of three hundred (300) feet of street frontage unless otherwise authorized by the Council.
- (4) Buffering. Appropriate buffering and setbacks shall be used between environmental resources and proposed development to ensure that the proposed development does not degrade the existing habitat. Developers shall provide an open space buffer zone around all natural areas unless otherwise authorized by the Council. The size of the buffer zone shall be in accordance with studies prepared by the Colorado Parks & Wildlife or a qualified wetland/wildlife ecologist employed by the Town and paid for by the developer.
- (5) Ownership and maintenance of open space. Ownership and maintenance of public open space shall be determined by the Town on a case-by-case basis through the review process.
 - (i) Generally, the Town shall own and maintain neighborhood parks, community parks and public trails.
 - (ii) Pocket parks, landscaped outlots and private recreational facilities shall be owned and maintained by a homeowners' association or the landowner.
 - (iii) Environmentally sensitive, archaeological and historic resources may be dedicated to and maintained by the Town, if approved by the Council.
 - (iv) Stormwater detention and retention areas that function as open space shall be owned and maintained by a homeowners' association or the landowner, unless otherwise approved by the Town.
 - (v) Areas designated as open space shall be maintained according the designated function of the area. Applicants shall work with the Natural Resources Conservation Service or a qualified consultant employed by the Town and paid for by the developer to develop a management plan which addresses: irrigation, revegetation, erosion control, and weed management. If the area is to remain in private ownership, a mechanism which will assure maintenance will be funded in perpetuity must be in place at the time of final plat.
 - (vi) Areas designated as open space shall be protected by conveyance to the Town as provided on the plat and by this Chapter, deed restriction or other appropriate method to ensure that they remain open in perpetuity and cannot be subdivided or developed in the future without approval of the Town.

(d) Open Space Requirements.

- (1) Open space includes:
 - (i) Areas within the community designated for the common use of the residents of an individual development and/or the community at large;
 - (ii) Areas designated for preservation and protection of environmental resources including floodplains, natural drainage ways, and wetland areas;
 - (iii) Areas impacted by subsidence;

- (iv) Areas designated for agricultural preservation;
 - (v) Areas of archeological and historic significance; and
 - (vi) Areas of critical or important habitat as defined by the Colorado Parks & Wildlife.
- (2) Required open space shall not include the following:
- (i) Required setback areas around oil and gas production facilities;
 - (ii) Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as functional open space or preserve environmental resources, unless approved by the Council;
 - (iii) Private yards;
 - (iv) Tree lawns; or
 - (v) Required parking lot landscaping associated with all uses, except parking specifically designated for access to open space areas or within commercial/industrial projects.
- (3) Amount of open space required. The amount of functional open space required in each development will be based on the density of the development, the recreational requirements of the anticipated users and the anticipated opportunities for public recreation within walking distance of the site (1/4 mile). In addition to the streets, all residential subdivisions shall dedicate to the Town a minimum of 20% of the gross land area for public parks, trails and functional open space at the time of subdivision.
- (i) All residential developments. For residential developments, the developer shall provide:
 - (A) A minimum of 20% of the gross land being subdivided for use as functional open space including: pocket or neighborhood parks, plazas, trails, recreational amenities, homeowner's association owned landscaped areas (excluding parking lots), natural areas and amenities for residents or other civic purposes;
 - (B) The land for 1 pocket park for every 20 dwelling units or portion thereof which shall be constructed in the subdivision or a fair-share, cash-in-lieu contribution for the cost of the pocket park that will serve the development;
 - (C) The land for 1 neighborhood park for every 200 dwelling units or portion thereof which shall be constructed in the subdivision within one-quarter (1/4) mile radius of the proposed homes; or a fair-share, cash-in-lieu contribution for the cost of the neighborhood park that will serve the development;
 - (D) Land for 1 community park, or the fair-share, cash-in-lieu contribution for the cost of any regional community park for every dwelling unit which shall be constructed in the subdivision; and
 - (E) An internal trail system and trails as such may be designated in the Town trails map included in the Master Plan.
- (4) Commercial and industrial developments. In addition to streets the developer of lots one-half acre in size or larger shall provide:

- (i) A minimum of fifteen percent (15%) of the gross land being subdivided as functional open space which may include: plazas, trails, landscaped areas (including parking lots), natural areas and other civic purposes; and
 - (ii) Trails as such may be designated in the Town trails map included in the Master Plan..
- (5) Planned Unit Developments (PUD). In addition to streets, the developer shall provide:
- (i) A minimum of twenty-five percent (25%) of the gross land being developed as open space which may include: pocket parks, trails, homeowner's association or landowner owned landscaped areas (excluding parking lots), natural areas and amenities for residents and other civic purposes;
 - (ii) An internal trail system and trails as such may be designated in the Town trails map included in the Master Plan.

7.24.140 Contribution for Public School Site

To meet the increased need for schools as a result of increased housing, the subdivider shall dedicate land areas or sites suitable for school purposes, or provide cash-in-lieu of land in the amount specified for every dwelling unit which may be constructed within the subdivision to serve the elementary, middle, and high school public school needs of the residents of such dwelling units. The Town may elect that public school sites may be transferred and conveyed to the Town or school district pursuant to stipulations in intergovernmental agreements between the Town and school district.

- (a) For single-family dwelling units, the amount of land shall be 1.84 acres per 100 dwelling units;
- (b) For duplex or triplex dwelling units, the amount of land shall be 1.40 acres per 100 dwelling units;
- (c) For multi-family dwelling units, other than duplex or triplex units, the amount of land shall be 0.64 acres per 100 dwelling units;
- (d) For condominium and townhome units, the amount of land shall be 0.82 acres per 100 dwelling units; and
- (e) For mobile homes, the amount of land shall be 1.10 acres per 100 dwelling units.

7.24.150 Public Sites and Dedication Requirements

The developer of residential projects shall dedicate public sites for open space, parks, schools, or other civic purposes in accordance with the requirements of this Section to serve the proposed subdivision and future residents thereof.

- (a) **Land Dedication.** Payments and dedications made under the requirements of this Section shall be made payable or dedicated to the Town. Dedication of such sites and land areas to the Town shall be free and clear of all liens and encumbrances. The applicant shall provide for the installation of the streets adjacent to the park and school sites, the installation of water, sewer and other public utilities to the park and school sites, and overlot grading as may be necessary of the park and school sites.
- (b) **Fee-in-Lieu of Dedication.** If there is not sufficient property on the plat to provide land for the entire school or park facility required, with the approval of the Council, the subdivider may, in lieu of dedication

of all or part of the land requirements, pay fees in lieu of the equivalent land areas which would have been dedicated to public facilities. Fees are to be calculated in the following manner:

- (1) Fees shall be calculated based on the full market value of the land assuming the plat has been approved and proper zoning exists.
 - (2) Full market value shall be determined by mutual agreement between the subdivider and the Council. In the event of inability of any of the above parties to agree on the value of the subject land, the subdivider shall submit to the Town a written appraisal from a licensed Colorado appraiser. The applicant shall pay the cost of said appraisal.
 - (3) Such appraisal may be submitted during the review period of the Final Plat. If the Council believes that the appraised value is not accurate, it may obtain its own appraisal from a licensed Colorado appraiser, or determine the fair market value by such procedure as the Council deems appropriate.
 - (4) All fees-in-lieu of dedications are to be paid prior to the approval of the recording of the Final Plat unless otherwise agreed by the Council.
 - (5) For subdivisions that are platted in phases, the above calculations can be made on a phase-by-phase basis through methods to be devised by the Council realizing that by virtue of developing one (1) phase, the value of the undeveloped adjacent phase will increase. The subdivider has the option of paying the fees for all phases upon the due date of fees for the first phase.
- (c) **Unacceptable Land for Dedication.** Unless otherwise determined by the Council in its sole discretion, land areas that are not acceptable in determining the fulfillment of the requirements for the provision of land areas for public purpose facility sites shall include the following:
- (1) Natural drainageways, streams, gullies and rivers including all lands within the 100-year floodplain.
 - (2) Rights-of-way and/or easements for irrigation ditches and aqueducts.
 - (3) Steep, rugged and hazardous geological land areas, and such other areas as are not conducive for use as the intended park or school site.

7.24.160 Landscape Design

- (a) **Intent.** To preserve Town's special character, and integrate and enhance new development by promoting quality landscape design that:
- (1) Reinforces the identity of the community and each neighborhood;
 - (2) Provides tree-lined streets in urban areas;
 - (3) Anchors new buildings in the landscape;
 - (4) Provides tree canopies within paved areas; and
 - (5) Is environmentally sensitive by preserving existing trees, using water conservation techniques, planting native species (when appropriate), and enhances valuable habitat.
- (b) **General Provisions.** All land development applications shall be accompanied by an appropriate landscape plan. Building permit applications for individual single-family residences will not require

landscape plans. However, all landscaping within the community shall comply with the intent of these regulations.

- (1) Tree lawns. Landscape improvements in urban settings shall create an orderly, irrigated, managed landscape. All urban neighborhoods shall have tree-lined streets. Trees in tree lawns shall include a mix of species, be aligned in straight rows, and shall be placed within the right-of-way tree lawn. Spacing of trees shall allow for their mature spread. Trees installed along streets that will be widened in the future shall take into account plans for future widening of streets so that established trees will not be disturbed during future construction. Landscape improvements in environmentally sensitive areas and lower density, rural developments shall be native looking and informal. Trees along rural streets shall be planted to create irregular clusters of trees to reinforce the design and character of each project and frame views.
- (2) Site landscape design. Landscape improvements shall be an integral part of the overall site design for each property. Landscape improvements shall be designed to complement and enhance the character of neighborhoods and shall follow these guidelines:
 - (i) Configured to maximize connections within the site to natural areas and to landscaped areas in adjacent developments. Small, isolated islands of landscaping should be avoided except as required in parking lots and for screening along roadways.
 - (ii) Enhance functional open space through the creation of outdoor rooms appropriate to the location and purpose of the open space within the development. This can be accomplished through a combination of plantings, fencing and berms and by using natural features on the site.
 - (iii) Consistent with the character of the proposed development and the surrounding area to reinforce neighborhood identity.
 - (iv) Enhance natural features, drainage ways and environmental resources.
 - (v) Designed for mature landscapes and shall provide appropriate visibility for cars and pedestrians.
 - (vi) Preserve and frame views both into and out of the neighborhood.
 - (vii) Incorporate the elements of gateway, path and destination into the design of landscapes. Gateways are entries that provide transitions from one space to another. Pathways are routes that lead to a destination. Destinations are focal points that can include anything from a garden bench at the end of a path to a civic building at the end of a street.
 - (viii) No more than twenty-four (24) inches high when located in a sight distance triangle.
- (3) Environmental considerations.
 - (i) Landscapes shall use the following xeriscape design principles to facilitate water conservation:
 - (A) Well-planned planting schemes;
 - (B) Appropriate turf selection to minimize the use of bluegrass;
 - (C) Use of mulch to maintain soil moisture and reduce evaporation;

- (D) Zoning of plant materials according to their microclimatic needs and water requirements;
 - (E) Improve the soil with organic matter if needed;
 - (F) Efficient irrigation systems; and
 - (G) Proper maintenance and irrigation schedules.
- (ii) All landscapes shall strive to maximize the use of native species. Where native material is not appropriate for the intended use or appearance, plant species that are regionally adapted and noninvasive may be used.
 - (iii) Landscapes shall consist of a variety of species to enhance biodiversity. No one species may make up more than twenty-five (25) percent of the total non-grass plant materials on the site.
 - (iv) Buildings and parking areas shall be located to preserve and promote the health of existing trees, environmental resources and natural drainage ways. No healthy tree shall be removed without good cause. This requirement is not intended to prevent the removal of unhealthy trees in conjunction with site development.
 - (v) Where possible, trees shall be located to provide summer shade and limit winter shade on walks and streets.
 - (vi) A combination of plantings, berms, walls and fences shall be used as appropriate to buffer sensitive habitat.
 - (vii) Weed control will be practiced on all areas disturbed by construction and those areas shall be reseeded to prevent erosion. Native, noninvasive grasses shall be used for revegetation where practical. Weed control is the responsibility of the landowner on all reseeded areas and all preservation areas. Weed control shall be a continual responsibility of the owner during all phases of land clearing and construction.
 - (viii) All automatic irrigation systems must be installed with moisture sensors
 - (ix) Every effort shall be made to prevent the spread of noxious weeds.
- (4) New buildings and paved areas.
- (i) Provide trees, shrubs and groundcover plantings along the sides of new buildings. The size and intensity of plantings shall be appropriate to the building or structure.
 - (ii) Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics and traffic. A fence shall not be the only screening material used.
 - (iii) Use landscaping to provide a transition from developed, managed landscape to more natural vegetation.
 - (iv) Provide a tree canopy by installing shade trees within and adjacent to paved areas.
 - (v) Landscaped areas in commercial parking lots are limited to drip irrigation for trees and shrubs with no impact or spray heads permitted. For grass areas, only drought tolerant grasses shall be permitted.

(5) Plant materials.

- (i)** The minimum planting sizes on all required landscaping shall be two (2) inch caliper deciduous trees, one and one-half (1-1/2) inch caliper ornamental trees, six (6) foot tall evergreen trees and five (5) gallon shrubs.
- (ii)** Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects and injuries. A variety of plant species should be installed to prevent the spread of disease.
- (iii)** All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the current edition of the American Standard for Nursery Stock, American Association of Nurserymen, Inc., (AANASNS) and the Colorado Nursery Act of 1965 (CNA).

(6) Irrigation. All required landscaping shall be irrigated as required for plant establishment and maintenance. Irrigation shall be appropriate to the type and scope of the improvements.

- (i)** Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available.
- (ii)** Required landscaping in urban developments shall be irrigated with a permanent irrigation system, which contains moisture sensors.
- (iii)** Irrigation systems shall be drip irrigation where possible. All irrigation systems shall be designed to prevent overspray and runoff onto paved or other non-landscaped areas.
- (iv)** Temporary irrigation may be used to establish native grasses and vegetation.

(7) Guarantee of installation. Required landscape improvements shall be installed prior to issuance of a Certificate of Occupancy (CO) for all structures. If weather conditions prevent installation, the developer shall post a financial guarantee for the improvements. This guarantee shall be released upon completion of the installation of the landscaping.

(8) Maintenance. In order to provide for the ongoing health and appearance of landscape improvements, all landscaping shall be maintained and replaced by the landowner/occupant as necessary. All property owners/occupants shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property.

(c) Landscaping Design Standards.

- (1)** Landscaping within the right-of-way and required common open space. The developer or assigns shall provide:
 - (i)** Tree lawns – an average of at least one (1) deciduous or ornamental tree for every forty (40) linear feet of block frontage or portion thereof. Trees shall be planted within the tree lawn with adequate spacing to allow for the mature spread of the trees.
 - (ii)** Collector and local streets – live groundcover including a combination of grass, trees, flowers, grass or shrubs. In commercial areas this area may be paved if it functions as pedestrian access to storefronts and is integrated into the overall design of the other improvements on the site.

- (iii) Arterial streets – live groundcover as appropriate to the use and function of the area, including a combination of grass, trees, flowers, paving and one shrub for every one hundred fifty (150) square feet of landscape area clustered into planting beds. Developer shall also install an automatic irrigation system for all landscaping within arterial rights-of-way.
 - (iv) Landscaping for required common open space – such as pocket parks and along trails. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation (where necessary) and paving. Bluegrass is discouraged in these areas.
 - (v) A mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping such as a homeowners' association and covenants.
- (2) Business/commercial development landscaping standards.
- (i) Landscape improvements within the CBD and C zone districts shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. A minimum of fifteen (15) percent of the site (gross) shall be landscaped area.
 - (ii) The developer or assigns shall provide:
 - (A) Site trees – plant a minimum of one (1) tree per one thousand (1,000) square feet of landscaped area, distributed on the site.
 - (B) Shrubs – plant a minimum of one (1) shrub per one hundred fifty (150) square feet of landscaped area. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-half (1/2) of the required shrubs at the rate of one (1) tree for six (6) shrubs.
 - (C) Groundcover – establish irrigated grass turf maintained to appropriate standards for active recreation in areas that will function for active recreation. Where appropriate, use native grass for areas that will not function as active recreation areas. Native grass must be weed free and maintained at a maximum height of eight (8) inches. There shall be a minimum of seventy-five (75) percent live materials between the building and the street unless otherwise approved by the Town. For active recreation areas a turf type tall fescue or a brome/fescue mix will be used.
 - (D) Landscape setback to parking lots – fifteen (15) feet from arterials and other streets. The purpose of the setback is to provide a buffer between the street and parking areas.
 - (iii) Screen loading areas – Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property must be screened from view with an opaque screen that is an integral part of the building architecture, or by landscaping. Chain link fencing with slats, tires or used building materials are not acceptable screening materials.
 - (iv) The building owner or occupant shall maintain the yard and landscaping within the adjacent road right-of-way in accordance with Town regulations.

- (v) When an applicant wishes to offer a fee-in-lieu of landscaping, the applicant must coordinate with the Town Planner and Public Works Director to determine how landscaping for the proposed use will be made available. A statement of the agreed upon plan for a fee-in-lieu of landscaping must be included with the application. Final acceptance of any fee-in-lieu is at the complete discretion of the Council.
- (3) Industrial development landscaping standards.
- (i) Landscape improvements within the I-1 and I-2 districts shall be designed to enhance the overall appearance of the development and to integrate the project with adjacent land uses and into the surrounding neighborhood. A minimum of fifteen (15) percent of the site (gross) shall be landscaped area. The potential waiver of landscape requirements on the subject property is an option per Section 7.24.140.b, Fee-in-lieu of dedication, above.
 - (ii) The developer or assigns shall provide:
 - (A) Site trees – plant a minimum of one (1) tree per one thousand five hundred (1,500) square feet of landscaped area, distributed on the site.
 - (B) Shrubs – plant a minimum of one (1) shrub per three hundred (300) square feet of landscaped area. Group shrubs and distribute throughout the site. Trees may be substituted at the discretion of the Planning Commission at site plan review.
- (4) State Highway corridor landscaping standards. The developer or assigns shall provide:
- (i) Landscape setback to parking lots – provide a fifteen (15) foot landscape setback from the highway right-of-way. The purpose of the setback is to provide a buffer between the highway and parking areas. Signage may be included in this setback.
 - (ii) Shrubs – a minimum of one (1) shrub per one hundred fifty (150) square feet of landscaped setback. Group shrubs and distribute throughout the landscape setback. Trees may be substituted for up to one-half (1/2) of the required shrubs at the rate of one (1) tree for six (6) shrubs.
- (5) Central Business District (CBD) landscaping standards. Downtown landscaping is intended to provide an attractive environment for people to walk and shop. The developer or assigns shall provide a combination of window boxes, planters, trees, benches, etc. as appropriate to enhance building entries and the streetscape.
- (6) Parking lot landscaping standards. Parking lot landscaping is intended break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development and enhance the overall appearance of each project. All parking lots with ten (10) spaces or more shall be subject to these requirements. The developer or assigns shall provide:
- (i) Site trees – a minimum of one (1) tree per five (5) parking spaces. Group trees together in islands which are a minimum of ten (10) feet wide. Use the landscaping to break up large expanses of pavement and to create a tree canopy for summer shade.
 - (ii) Shrubs – a minimum of one (1) shrub per one hundred fifty (150) square feet of landscaped area. Group plantings in landscape islands.
 - (iii) Groundcover – limit areas of irrigated turf. Grass is discouraged in areas less than ten (10) feet wide. Install a grass buffer (native grass where possible) around the perimeter to filter runoff and improve water quality.

- (iv) Landscape setback to parking lots – fifteen (15) feet from arterials and other streets. The purpose of the setback is to provide a buffer between the street and parking areas and to screen the parking from the street.
- (v) Provide a mechanism for long-term maintenance of landscaping – all landscaping within and adjacent to parking lots shall be owned and maintained by the landowner or occupant.

(d) Storm Drainage Facilities.

- (1) Intent. To promote innovative and effective land and water management techniques that protect and enhance water quality.
- (2) General provisions.
 - (i) Landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.
 - (ii) It shall enhance the overall appearance of the project, prevent erosion and improve water quality of storm water runoff whenever possible.
 - (iii) Storm drainage facilities may function as open space for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately and approved by the Council.
 - (iv) The use of planting strips and shallow landscaped depressions (bio-swales) in parking lots and along roads is encouraged to help trap and remove pollutants from storm water runoff.
- (3) Applicability. All storm drainage facilities shall be appropriately landscaped.
- (4) Minimum requirements.
 - (i) All facilities shall be seeded to grass appropriate to the function of the area. Areas to be used for active recreation shall be seeded to a turf-type grass and irrigated with a permanent irrigation system. Areas to be maintained for habitat enhancement shall be seeded to native grasses and wildflowers. Developer is responsible for establishment of a complete, weed free stand of grass. Trail corridors may be seeded to native grasses if appropriately integrated with adjacent improvements. Areas to be used for active recreation shall be seeded to a turf type tall fescue or brome/fescue mix or other drought tolerant grass acceptable to the Town and irrigated with a permanent irrigation system.
 - (ii) Maximum side slope on drainage facilities shall be 4:1, minimum slope of the bottom of a drainage facility shall be one-half (1/2) percent.
 - (iii) Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, located so they do not impair the function of the facility.
 - (iv) Habitat and water quality enhancement including wetland plantings in low wet areas is encouraged.
- (5) Ownership and maintenance. All drainage facilities shall be owned and maintained by the landowner or occupant unless otherwise approved by the Town.

- (e) Submittal Standards for Landscape Plans.** All land development applications will be accompanied by the appropriate landscape plan:

TYPE OF APPLICATION	CONCEPTUAL LANDSCAPE PLAN	PRELIMINARY LANDSCAPE PLAN	FINAL LANDSCAPE PLAN
Sketch Plan	Yes		
Preliminary Plat/PUD		Yes	
Final Plat/PUD			Yes
Conditional Use Review			Yes
Site Plan			Yes

- (1) Conceptual landscape plan. (Submit with sketch plan) Intent: to illustrate the overall design concept for landscaping and depict how it relates to the overall development.
 - (i) Describe the design intention of the proposed landscape improvements.
 - (ii) This information should be included on the sketch plan map or combined with the conceptual open space plan if it can be clearly illustrated and the scale is not greater than 1"=200'.
 - (iii) Information required on the plan is listed in the table which follows.
- (2) Preliminary landscape plan. (Submit with preliminary plat) Intent: to illustrate the master landscape plan for the development.
 - (i) Describe the design intention and how the proposal is consistent with the purpose and intent of these regulations.
 - (ii) Landscaping should be included on the preliminary open space and ecological characterization plan if it can be clearly illustrated and the scale is not greater than 1" = 100'.
 - (iii) Information required on the plan is listed in the table which follows.
- (3) Final landscape plan. (Submit with final plat) Intent: to ensure each phase of the final landscape plan is consistent with the master landscape plan for the development and to illustrate the specific landscaping details for each phase.
 - (i) Describe the design intention and how the proposal is consistent with the preliminary landscape plan.
 - (ii) The final landscape plan must be on a separate page from the final plat map and should be included with the final open space plan. The scale shall not greater than 1"=50'.
 - (iii) Information required on the plan is listed in the table, which follows.

INFORMATION REQUIRED	CONCEPT	PRELIMINARY	FINAL
Scale, north arrow, site boundary	Y	Y	Y
Existing and proposed streets		Y	Y
Existing and proposed utilities and easements		Y	Y
Existing contours (2' intervals), can be USGS for conceptual landscape plan	Y	Y	Y
General grading concepts for proposed improvements, typical cross-sections of streets and special treatment areas		Y	
Proposed contours (2' intervals)			Y
Describe the design intention	Y	Y	Y
Describe the general character and location of proposed landscaping and open space and how it meets the purpose of these regulations	Y		
Illustrate how the open space network and pedestrian circulation system will function	Y		
Existing site features including ditches, trees, shrubs and groundcovers and any drainageways, wetlands or wildlife habitat present on the site. Indicate which plants will be preserved, the method of preservation and which will be removed.	Y	Y	Y
Proposed landscaping including: trees, shrubs, groundcover, walks, fences. Show which plantings are deciduous and evergreen		Y	
Indicate which areas will be irrigated and method of irrigation		Y	Y
Typical detail drawings at 1"=20' to illustrate perimeter treatment, buffering, typical front yard, and any special treatment areas on the site		Y	
Define areas to be considered open space and if they will be public or private. Indicate how open space will be maintained including: erosion control, revegetation, and weed management both during and after construction.		Y	Y

Detailed planting plan indicating location, species, size and quantity of all proposed plantings and groundcover. Improvements shall be shown in their final location and mature size. Include a plant list in chart form and description of the type and location of groundcover, walks, fences, and mulches. Include a cost estimate for improvements. (This may be submitted as a separate sheet and is not required on the plans.)			Y
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- (f) **Prohibited Plant Materials List.** The following trees are prohibited in the Town: Russian Olive, Lombardy Poplar, Siberian Elm, Boxelder Maple, cotton-bearing Cottonwood, Salt Cedar or Tamarisk.

7.24.170 Buffering and Screening Techniques

- (a) **Intent.** To integrate adjacent land uses and provide seamless transitions from one use to another through the use of building orientation and access, landscaping, appropriate architectural elements, and non-buildable buffer areas.
- (b) **General Provisions.**
- (1) Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the developer of the more intensive use to insure that the transition from one use to another is attractive, functional and minimizes conflicts between the current and planned uses.
 - (2) It is the responsibility of the developer of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment, buffer areas, and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting and traffic.
 - (3) Buffering of up to 100 feet of non-buildable area may be required between any development and adjacent natural or environmentally sensitive areas or different uses. The actual amount of any buffer area will be determined on a case-by-case basis.
 - (4) Under no circumstances shall a fence be the only screening material used as a buffer between land uses.
- (c) **Location and Screening of Required Loading and Service Areas.**
- (1) Loading docks, solid waste facilities, recycling facilities and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
 - (2) Screening, buffering and landscaping shall be incorporated to prevent direct views of the loading areas and their driveways from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping; and shall be visually impervious. Recesses in the building or depressed access ramps may be used.

(d) Dumpsters.

- (1)** Every development that is required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:
 - (i)** Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;
 - (ii)** Constructed to allow for collection without damage to the development site or the collection vehicle; and,
 - (iii)** Provide an area for recycling as well as disposal of solid waste.
- (2)** All such dumpsters shall be screened to prevent them from being visible to:
 - (i)** Persons located within any dwelling unit on residential property other than that where the dumpster is located;
 - (ii)** Occupants, customers, or other invitees located within any building on nonresidential property other than that where the dumpster is located; and
 - (iii)** Persons traveling on any public street, sidewalk or other public way.

7.24.180 Fences and Walls

- (a) Intent.** To ensure that walls and fences are attractive and in character with the neighborhood. The creation of fence “canyons” along streets, parks or other public areas is prohibited.

(b) General Provisions.

- (1) Compatibility.** Walls and fences shall be architecturally compatible with the style, materials, and colors of the principal buildings on the same lot. If used along collector or arterial streets, such features shall be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings, or through similar techniques. A fence or wall may not consist of a solid, unbroken expanse for more than fifty (50) feet.
- (2) Materials.**
 - (i)** Stone walls or brick walls with a stone or cast stone cap, treated wood fences, decorative metal, cast iron fences, stucco walls, and stone piers are encouraged. Solid walls and fences are permitted only in rear and side yards. Retaining walls are permitted where required for landscaping or architectural purposes. Hedges may be used in the same manner and for the same purposes as a fence or wall.
 - (ii)** Fences used in front yards shall be at least fifty (50) percent open. Allowable fences are split rail, wrought iron, picket, or other standard residential fences of a similar nature approved by the Town.
 - (iii)** Solid fences shall be constructed to meet the wind design criteria of the adopted Uniform Building Code, using a basic wind speed of eighty (80) miles per hour.
 - (iv)** Other materials may be incorporated in fences and walls as may be approved by the Town.

- (3) Prohibited materials. Contemporary security fencing such as concertina or razor wire, barbed wire, or electrically-charged fences (except in agricultural applications) is prohibited unless specifically allowed by the Council. Chain link fencing with or without slats shall not be used as a fencing material for screening purposes.
- (4) Retaining walls. Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall not be unsightly or detrimental to abutting property.
- (5) Height limitations. Fences or walls shall be:
 - (i) No more than forty-eight (48) inches high between the front building line and the front property line. Walls shall not be solid except for retaining walls. For corner lots, front yard fence regulations shall apply to both street sides of lot.
 - (ii) No more than forty-eight (48) inches high if located on a side yard line in the front yard, except if required for demonstrated unique security purposes. Fences and walls shall not be solid, except for retaining walls.
 - (iii) No more than six (6) feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
 - (iv) No more than twenty-four (24) inches high when located within the site distance triangle, and fences or walls within this site distance triangle shall not be solid.
 - (v) In the Industrial (I-1 and I-2) zone districts, a chain link fence may be permitted so long as it is not higher than six (6) feet anywhere on the premises unless a Minor Variance has been approved by the Manager and the visibility at the intersection and from public ways meet the requirements of this Chapter.
 - (vi) Fences around a recreation court (e.g. tennis, squash racket, squash tennis or badminton) or around a publicly-owned recreation area may exceed six (6) feet in height if the fence is at least fifty (50) percent open.
 - (vii) Maintenance. Dilapidated, unsightly or dangerous fences shall be removed or repaired when so ordered by the Town. Hedges shall be maintained in a healthy condition, trimmed and pruned as appropriate for the plant type. Dead plant material in hedges shall be removed or replaced as appropriate and when so ordered by the Town. Hedges shall not encroach upon sidewalks or street rights-of-way.
 - (viii) Permits for fences that encroach onto the public right-of-way shall be revocable at the discretion of the Town.

7.24.190 Residential Architecture (Single-Family and Multi-Family Dwelling)

- (a) **Intent.** Architecture plays an important part in developing an identity for neighborhoods and dwellings. The Town wants to build upon the architectural traditions of the region, yet allow for diversity of expression. In addition, the Town wants to encourage a variety of housing types, sizes and prices in each neighborhood to allow people to remain in their neighborhoods as their housing needs change.
- (b) **Housing Diversity/Neighborhood Identity.** Housing diversity is an important goal for new residential development in Town. In support of this, the integration of detached and attached single-family

dwelling and multifamily dwellings within neighborhoods, even in the same block, is encouraged. Developers shall submit scaled elevation and perspective views of the type of residential units that might be constructed on a typical residential block.

- (c) **Multi-Family Stacked Units, Including Condominiums and Apartments.** The intent of this section is to build multi-family stacked units that achieve a balance between repetition and variety. Each multi-family dwelling containing more than three (3) dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics. The following specific standards shall apply to multi-family stacked units, including condominiums and apartments:
- (1) **Individual building identity.** For all developments of three (3) or more multi-family stacked buildings, a floor plan may be repeated; however, identical building facades must not be replicated more than twice within the development. Before building may commence on a block and prior to the issuance of a building permit within the block, the applicant shall illustrate how the development will comply with the requirements set forth in this section.
 - (2) **Articulation.** Each multi-family dwelling or condominium shall be articulated with projections, recesses, covered doorways, balconies, box or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions. Each multi-family building shall feature walls that are articulated by a least two (2) of any of the following elements within every thirty-six (36) foot length of the facade:
 - (i) Recesses, projections or significant offsets in the wall plane;
 - (ii) Distinct individualized entrances;
 - (iii) Chimneys that project from the wall plane;
 - (iv) Balconies and/or other outdoor living space; or
 - (v) Bay or box windows.
 - (3) **Roofs.** Each multi-family building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least one (1) of the following elements:
 - (i) Changes in plane and elevations;
 - (ii) Dormers, gables or clerestories; or
 - (iii) Transitions to secondary roofs over entrances, garages, porches, or bay windows.
 - (4) **Color.** For all developments, there shall be no more than two (2) similarly colored structures placed next to each other along a street or major walkway.
 - (5) **Garages.** No street-facing facade shall contain more than four (4) garage fronts. Resident garages or parking that is internal to the block is encouraged. On-street parking should be made available for visitors.
- (d) **Finished Grade Requirements.** The intent of this section is to eliminate extreme slopes from the edge of buildings that limit the useable area of the lot after a building is built. All residential buildings shall not have more than a 3% overall slope change from natural to finished grade. Finished grade must not exceed 5% from any exterior wall of the building. If natural grade is greater than 5%, finished grade must not be more than 1% above of natural grade from that wall of the residence.

7.24.200 Commercial and Industrial Architecture

(a) **Intent.** The Town has distinctly different downtown, commercial and industrial types of development contemplated within its boundaries. They are different in character, purpose, and the proposed mixture of uses. The design considerations vary for each type, although there are many common design elements. The General Provisions section below outlines both common elements and the specific design considerations by type of use. With respect to the CBD: Central Business District, the Town's historic buildings have established a pattern of downtown development where buildings are located close to the sidewalk, forming a generally continuous street facade. Pedestrian movement is the primary focus. Building height, architectural details, front setbacks, parking location, wall articulation, and sidewalks establish the architectural edges that define this area as a walkable commercial corridor.

(b) General Provisions.

- (1) Connections. Commercial developments must be linked with surrounding areas by extending city streets, sidewalks, and/or paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle and vehicle access to and from all sides of the development.
- (2) Accessibility. Developments must be accessible to pedestrians and bicyclists as well as motorists. Site plans shall equally emphasize the following:
 - (i) pedestrian access to the site and buildings;
 - (ii) gathering areas for people; and
 - (iii) auto access and parking lots.

The emphasis must not be placed solely on parking and drive-through functions.

- (3) Walkways. Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.
- (4) On-street parking. Streets and other elements of the site plan shall be designed so that on-street parking is a functional part of the development (except along arterial streets).
- (5) Building orientation. Where possible, buildings in the CBD: Central Business District shall be located to front on and relate primarily to streets. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented street front. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.
- (6) Pedestrian scale. The establishment of buildings on isolated "pad sites" surrounded by parking lots and driveways, and that offer mainly auto-oriented signage to define entrances, is not allowed in the CBD Zone District.
- (7) Thematic architectural styles. Standardized "corporate" or strongly thematic architectural styles associated with chain-type restaurants and service stores are not allowed unless they accommodate the desired image for the Town and are compatible with adjacent structures and uses.

- (8) Location of parking lots. Parking requirements in the CBD: Central Business District shall be provided to the greatest extent possible by spaces at the rear or sides of the building.
 - (9) Blank walls. Blank, windowless walls are discouraged. Where the construction of a blank wall is necessary, the wall shall be articulated.
 - (10) Wall articulation.
 - (i) Walls shall not have an uninterrupted length exceeding fifty (50) feet. Pilasters, texture transitions, windows and stepping of the wall plane are required.
 - (ii) All exterior elevations shall maintain the integrity of the adjacent dwellings architectural character and detailing.
 - (iii) Continuous cornice lines or eaves are encouraged between adjacent buildings.
 - (iv) Buildings with flat roofs shall provide a parapet with an articulated cornice.
 - (11) Facade treatment. The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building. Blank walls at side and/or rear elevations visible to the general public are not allowed unless the Town determines there are adequate building or landscape features to conceal the view of the blank wall.
 - (12) Windows. Windows shall be vertically proportioned wherever possible.
 - (13) Awnings. Fixed or retractable awnings are permitted. Canvas is the preferred material, although other water proofed fabrics may be used; metal, wood or aluminum awnings shall not be used unless otherwise approved by the Council. No portion of any awning, awning support, or awning decoration may be less than 7 feet above grade.
 - (14) Screening. All air conditioning units, HVAC systems, exhaust pipes or stacks, elevator housing and satellite dishes, other telecommunications receiving devices and any other apparatus placed on the roof of a building shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements including pipe chases, and landscaping. In addition, all trash facilities, loading and parking areas shall be screened from public view by landscaping, building elements or approved fencing.
 - (15) Architectural Details. All materials, colors, and architectural details used on the exterior of a building shall be compatible with the building's style and with each other.
- (c) **CBD: Central Business District Architectural Standards.**
- (1) Setbacks. Buildings shall abut the front property line. Building facades may be recessed if an Arcade or similar structure abuts the front setback. Architectural projections including cornices, balconies, canopies and entry features may encroach into public rights-of-way, subject to permits as required by Town codes.
 - (2) Multi-story, mixed-use structures. Commercial uses shall be contained in multi-story (two to three stories) mixed-use structures with commercial/retail uses on the ground level and above and/or apartment dwellings or offices on the upper levels. Such building shall vary in terms of footprint and architectural elevation.
 - (3) Entries. Transparent entries and large store-front windows are strongly encouraged. Recessed and other styles of window openings are desired.

- (4) Windows. Street-level storefront windows are strongly encouraged. Office and residential windows organized in a generally regular pattern are encouraged.
- (5) Awnings/canopies. Awnings or canopies, which provide a generally consistent cover along the pedestrian walk, are strongly encouraged. Signage is allowed on awnings. Arcades are desired to maintain a more continuous weather protected walk.
- (6) Historic buildings. Where feasible, historic structures shall be preserved and restored to allow for reuse as businesses.
- (7) Additional architectural standards. Where applicable, it is recommended that projects in the CBD zone district meet the architectural standards identified below in Subsection d: Commercial District Architectural Standards.

(d) C: Commercial District Architectural Standards

- (1) Design of developments with internal orientation. In multiple-building developments, where setbacks are increased to accommodate independent development with internal orientation, primary building entrances are encouraged to face walkways, plazas, or courtyards that have direct, continuous linkage to the street without making people walk through parking lots. However, it may be necessary for such direct pedestrian access ways to cross drive aisles. Driveway crossings must place priority on the pedestrian access.
- (2) Connections. Where it is not possible or appropriate to extend a Town street or sidewalk directly into development or bring the building up to a Town sidewalk, buildings shall be shaped and designed to form pleasant, direct connections to adjacent land uses.
- (3) Requirement for four-sided design. A building's special architectural features and treatments shall not be restricted to a single facade. All sides of a building open to view by the public, whether viewed from public or private property shall display a similar level of quality and architectural interest.
- (4) Building form. The design of all buildings shall employ textured surfaces, projections, recesses, shadow lines, color, window patterns, overhangs, reveals, changes in parapet heights, and similar architectural features to avoid monolithic shapes and surfaces and to emphasize building entries. Designs shall not contain unbroken flat walls of fifty (50) feet or greater in length.
 - (i) Buildings having single walls exceeding fifty (50) feet in length shall incorporate one or more of the following for every fifty (50) feet:
 - (A) Changes in color, graphical patterning, changes in texture, or changes in material;
 - (B) Projections, recesses and reveals;
 - (C) Windows and fenestration;
 - (D) Arcades and pergolas;
 - (E) Towers;
 - (F) Gable projections;
 - (G) Horizontal/vertical breaks; or
 - (H) Other similar techniques.

- (5) Exterior building materials and colors. Intense, bright or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors.
- (6) Roof materials. All sloping roof areas with a pitch of three in twelve (3 in 12) or greater, and visible from any public or private right-of-way, shall be surfaced with attractive and durable materials.
- (7) Orientation of pedestrian entries. All office, hotel and motel structures shall be oriented so that pedestrian entries face the nearest adjacent street.

(e) Industrial (I-1 and I-2) Architectural Standards.

- (1) Intent. Industrial uses shall provide the opportunity to develop industrial facilities and business parks. In addition, the following standards shall apply:
 - (i) A building's special architectural features and treatments shall not be restricted to a single facade. All sides of a building open to view by the public, when viewed from public right-of-way shall display a similar level of quality and architectural interest.
 - (ii) Building massing and form:
 - (A) Office and entry spaces shall be distinguished from the building mass.
 - (B) Large, square, "box-like" structures are prohibited. Architectural elements with smaller forms stepping outwards and down are permissible.
 - (C) Loading areas shall not front any street or public right-of way.
 - (D) Parking requirements shall be provided to the extent possible at the rear or sides of the building.
 - (iii) Wall articulation. Walls shall not have an uninterrupted length exceeding fifty (50) feet. Pilasters, texture transitions, windows and/or stepping of the wall plane are required.
 - (iv) Siting structures.
 - (A) Structures shall be sited to avoid a "wall" affect along public rights-of-way and along adjacent property lines. This can be achieved by varying the building setbacks and clustering buildings.
 - (B) Where multiple buildings are proposed on a development parcel, buildings shall be oriented to allow views into the project and shall preserve high quality views through the project (e.g. views of the mountains).

7.24.210 Lighting

(a) Intent

- (1) To create an attractive lighting system to enhance visibility and safety, while minimizing glare and contrast.
- (2) To encourage exterior lighting that is functional, aesthetically pleasing, and complimentary to the architectural style of buildings.

- (3) To preserve and enhance the region's dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

(b) General Provisions.

- (1) Evaluation of exterior lighting. Exterior lighting shall be evaluated in the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood. The degree to which exterior night lighting affects a property owner or neighborhood will be examined considering the light source, level of illumination, hours of illumination, and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood.
- (2) Light style. The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.
- (3) Concealed light source. Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent property and away from the vision of passing motorists. All lights shall be directed downward and the light source shall be equipped with "cut-off" devices so that it will not be visible from any adjacent property and to ensure that ambient skyward light is eliminated. Accent and flagpole lighting shall be permitted to be directed upward as long as the light source is shielded and not visible from any adjacent property. Light fixtures installed under canopies, awnings, overhangs and the like shall be fully recessed.
- (4) Hours of lighting operation. All parking lot lighting fixtures and exterior building lights, except those required for security purposes, shall be extinguished within one (1) hour after the end of business hours and remain extinguished until one (1) hour prior to the beginning of business hours. If a portion of a parking lot is used after dark, only that portion shall be lighted.
- (5) Height standards for lighting.
 - (i) Residential zoning districts. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than sixteen (16) feet from the ground. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) and four (4) feet high.
 - (ii) Non-residential zoning districts. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than twenty-five (25) feet from the ground, unless a greater height, not to exceed the maximum building height in the applicable zone district, is approved by the Planning Commission or Council through a development application review process. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) and four (4) feet high.
- (6) Excessive illumination. Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standards set forth in this Section, if the light shines directly into a residence, or if the standards set forth in this Section could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

- (7) Exemption for outdoor recreational uses. Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses (both public and private, unless otherwise restricted by the Council) shall be exempt from the general provisions of this Section. However, exterior lighting for such uses shall be extinguished no later than 11:00 p.m. The Manager shall have the authority to grant an exemption from these requirements for special events.

7.24.220 Signs

- (a) **Intent.** The intent of this Section is to coordinate the use, placement, physical dimensions and design of signs within the Town while ensure that signs are compatible with their surroundings, promote wayfinding, provide fair and consistent permitting and enforcement, and prevent placement of signs that are a safety hazard or nuisance to occupants of adjacent and contiguous properties and the traveling public.

(b) **General Provisions.**

- (1) A sign permit shall be required in order to erect, move, alter, add lighting, reconstruct, or repair any sign except signs that are exempt from permits as identified in Subsection (d) below.
- (2) Applications for sign permits shall be made in writing on forms furnished by the Town.
- (3) In multiple tenant buildings, a separate permit shall be required for each business entity's sign(s).
- (4) Changing or replacing the copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign or render the sign in violation of this Section.

- (c) **Sign Permit Review Criteria.** The following review criteria shall be used by the Town to evaluate all permit applications:

- (1) The sign conforms to the definition, size, height, material and location requirements detailed in standards below;
- (2) The sign will not interfere with pedestrian or vehicular safety;
- (3) The sign will be of a professional quality and harmonious in scale and proportion for the building or location where they will be located.
- (4) The sign will not detract from the character of an architecturally significant or historic structure;
- (5) The sign will be located so as to have a negative impact on adjacent properties;
- (6) Any lighting of the sign will be directed in such a manner that it meets the requirements of Section 7.24.230(c).
- (7) The sign would not detract from the pedestrian quality of street or area; and
- (8) The sign will not add to an over-proliferation of signs on a particular property or area.

- (d) **Exempt Signs.** The following signs do not require a permit. Unless specifically mentioned below, all signs shall comply with the standards below:

- (1) **Address Signs.** Non-illuminated signs not exceeding two (2) square feet in area which identify the occupants and/or address of the premises, with no more than one (1) sign placed on the frontage, and meeting the Town and Routt County Addressing Standards.

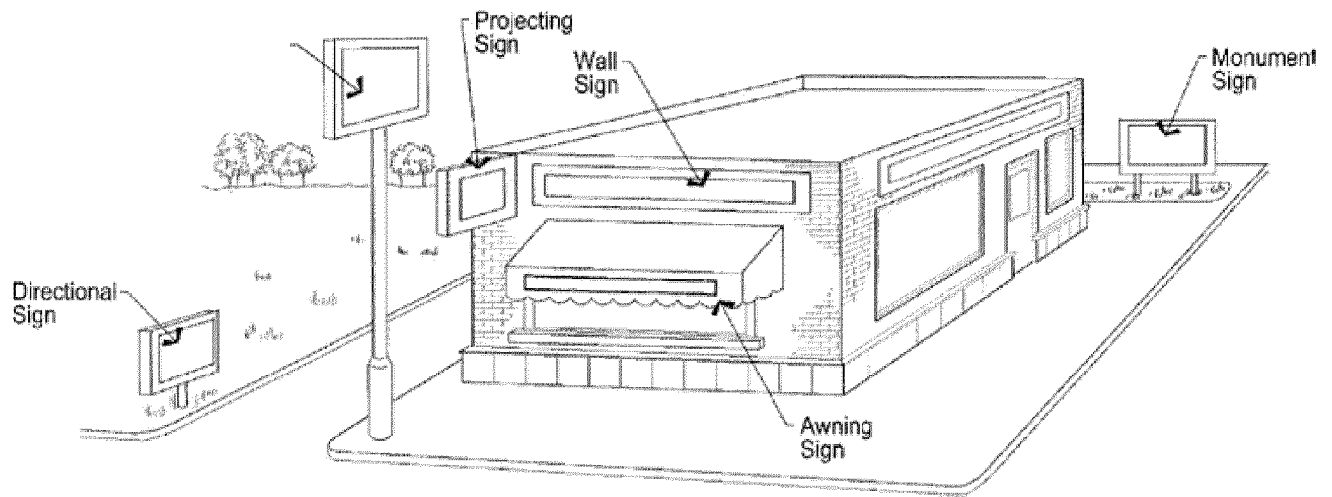
- (2) **Banners.** Banners applied to paper, plastic or fabric used to decorate or attract attention to a business establishment provided it is displayed for a period not to exceed thirty (30) days in a one (1) year period and is securely attached to the wall of the establishment, freestanding signs or light poles located on private property. One single-side banner per street frontage per establishment is permitted. Off-premises banners for special events, e.g. religious, charitable, civic, fraternal or similar non-profit/not-for-profit organizations are permitted provided they are erected no sooner than thirty (30) days prior and removed no later than seven (7) days after the event, that they are not illuminated, and off the street right-of-way unless granted such permission by the Town or Colorado Department of Transportation.
- (3) **Building Identification/Memorial Signs/Historical Markers.** Non-illuminated signs constructed of wood, metal or masonry which are permanently affixed to buildings or structures for the purpose of identifying the name of the building, date of erection or other historical information not exceeding six (6) square feet.
- (4) **Directional Signs.** Signs indicating entrances, exits and one-way streets and located on the property to which the sign relates. Such signs shall not exceed six (6) square feet in area each.
- (5) **Farm Products/Farmers Markets.** Temporary farm product/farmers market signs provided:
 - (i) One (1) on-premises unilluminated sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet from any side lot line. Such sign shall have a maximum area of nine (9) square feet.
 - (ii) A maximum of two (2) off-premises unilluminated signs shall be permitted. Said off-premises signs may not exceed six (6) square feet of sign face each. Such signs shall not be located in the street right-of-way or within ten (10) feet of any side lot line. Signs shall only be in place when the business is open to the public.
- (6) **Flags.** Flags, crests or banners of nations, or organizations of nations, or states and cities, or professional fraternal, religious, or civic organizations, except when displayed in connection with commercial promotion.
- (7) **Garage/Estate/Yard Sale/Auction Signs.** Signs that advertise a private garage, estate or yard sale provided such signs are displayed no more than two (2) times per year per location for a period not to exceed five (5) days, or for auctions thirty (30) days.
- (8) **Portable Signs.** Businesses will be allowed one (1) portable sign of six (6) square feet of sign face each per street frontage. Such sign must be located outside of the street right-of-way, not exceed one (1) sign for each twenty-five (25) feet of publicly accessible building frontage, not create a potentially hazardous situation or impede the flow of pedestrian traffic, and be securely tethered, weighted or restrained to resist strong winds. Signs shall only be in place when the business is open to the public.
- (9) **Public Signs.** Signs required or specifically authorized by any law or by the Town for a public purpose.
- (10) **Public Information Signs.** Signs that identify restrooms or provide instructions as required by law or necessity, provided the sign does not exceed two (2) square feet in area, is not illuminated. (This category shall be interpreted to include such signs as “no smoking”, “restrooms”, “no soliciting”, “self-service”, and similar informational signs.

- (11) **Road Signs.** Signs for the control of traffic or other regulatory purposes including signs for the control of parking on private property and official messages erected by, or on the authority of, a public officer in performance of their duties.
 - (12) **Scoreboards.** Scoreboards for athletic fields.
 - (13) **Temporary Signs.** Non-illuminated temporary signs posted on property that is an active construction site or actively being marketed for sale, rent or lease. Signs in conjunction with residential uses shall not exceed twelve (12) square feet; signs in conjunction with all other uses shall not exceed thirty-two (32) square feet. Such signs shall be removed within seven (7) days after completion of the construction project or sale/lease of the property.
 - (14) **Time and Temperature Signs.** Signs displaying time and temperature provided they are not related to a commercial promotion. Time and temperature devices shall not be included within the measurement of maximum sign area.
 - (15) **Vehicular Signs.** Signs displayed on motor vehicles, semi-trailers, shipping containers or portable storage units that are being operated and/or stored in the normal course of business, such as signs indicating the name of the owner or business, e.g. moving vans, delivery trucks, service vehicles, provided that the primary purpose of such vehicles is not for the display of signs, have current registration and tags, and they are parked or store in areas appropriate to their use as vehicles.
- (e) **Prohibited Signs.** Signs that are not allowed anywhere in the Town include:
- (1) **Prohibited Signs and Content:**
 - (i) Off-premises commercial or advertising signs except as specifically permitted in this Section or as approved by a conditional use permit;
 - (ii) Signs with lighting technology that create animated features that comprise more than 25% of the total allowable sign face;
 - (iii) Mechanical, electrical appurtenances, e.g. revolving beacons, rotating signs, searchlights, inflatable signs or balloons, non-governmental electronic message boards, sound/smoke/odor emitters;
 - (iv) Signs with more than two (2) faces.
 - (v) Signs with optical illusion of movement by means of a design that presents a pattern capable of reversible perspective giving the illusion of motion or changing of copy.
 - (vi) Roof signs;
 - (vii) Motor vehicles unless the vehicle is functional, used as a motor vehicle, and has current registration and tags;
 - (viii) Signs that are a traffic hazard, e.g. causes visual obstruction/clear vision at an intersection or driveway, interferes with vehicle or bicycle traffic, blocks traffic control devices;
 - (ix) Any sign that interferes with the free passage from a means of ingress or egress or opening providing light or air;
 - (x) Signs containing text or graphics of an indecent or immoral nature, advertising unlawful activity, or are obscene, fighting words, defaming, inciting to imminent lawless action or true threats;

- (xi) Signs containing text or graphics that present a clear and present danger due to their potential confusion with traffic control signs or signs that provide public safety information, e.g. signs that use the words “Stop”, “Yield”, “Caution” or “Danger” or comparable words, phrases, symbols or characters, that imply a safety hazard that does not exist; and
 - (xii) Any sign or sign structure that is structurally unsafe, constitutes a hazard to safety or health, is not kept in good repair or is capable of causing electrical shocks to persons coming in contact with it.
- (f) **Computation of Sign Area.** The area of all signs shall be computed by determining the sum of the area of each square, rectangle, triangle, portion of a circle, or any combination thereof which creates the smallest continuous single perimeter enclosing the extreme limits of the display surface or faces of the sign excluding reasonable frames or non-structural trim, bracing and support structure. The measured area shall include only one side of the sign, and one additional face is authorized provided it is attached to the approved sign, identical to the approved sign, and separated from the approved sign by an angle of at least 270° on a horizontal plane.

(g) **Types of Signs**

- (1) **Awning Signs.** An awning sign is a wall sign which is painted, printed, stitched, sewn or stained onto the exterior of an awning. An awning is a movable or permanent shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.
- (2) **Canopy Signs.** A canopy sign is a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.
- (3) **Creative Signs.** A creative sign is a sign that has a unique design, that exhibits a high degree of thoughtfulness, imagination, inventiveness and spirit, and that makes a positive visual contribution to the overall image of the Town.
- (4) **Freestanding (Pole) Signs.** A freestanding (pole) sign is a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, but does not include a sign attached to a building.
- (5) **Monument Signs.** A monument sign is a permanent sign where the entire bottom of the sign is affixed to the ground, not to a building.
- (6) **Projecting Signs.** A projecting sign is any sign supported by a building wall and projecting at least twelve (12) inches or more horizontally beyond the surface of a building to which the sign is attached.
- (7) **Wall Signs.** A wall sign is any sign painted on, incorporated in 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.
- (8) **Window Signs.** A window sign is a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way, placed at or below the second-floor level.



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(h) Standards for Specific Types of Signs

TYPE OF SIGN	# OF SIGNS	MAXIMUM AREA (SQ FT)	MAXIMUM HEIGHT
Awning signs	<ul style="list-style-type: none"> 1 per individual building tenant building frontage 	<ul style="list-style-type: none"> Sum of all awning, canopy and/or wall signs on a given wall shall not exceed 5% of the wall area 	Awning, support framework and signage shall be a minimum 8 ft above finished grade
Standards:	<ul style="list-style-type: none"> Located only on 1st or 2nd story building frontages Awning (with/without signage) may extend over public right-of-way no more than 7 ft, and shall not extend above the roof line of building Signage shall not project beyond, above or below face of awning 		
Canopy signs	<ul style="list-style-type: none"> 1 per individual building tenant building frontage 	<ul style="list-style-type: none"> Sum of all awning, canopy and/or wall signs on a given wall shall not exceed 5% of the wall area 	<ul style="list-style-type: none"> Under-canopy signage parallel to face of building shall be a minimum of 8 ft. above finished grade
Standards:	<ul style="list-style-type: none"> Canopy (with/without signage) shall not extend above the roof line of building Signage shall not project above the top of canopy to which it is mounted Signage may project up to 12 inches from face of canopy 		
Creative signs	<ul style="list-style-type: none"> Case-by-case 	<ul style="list-style-type: none"> Case-by-case 	<ul style="list-style-type: none"> Case-by-case
Standards:	<ul style="list-style-type: none"> Shall provide a substantial aesthetic improvement to the site and a positive visual impact on the surrounding area Provide strong graphic character through imaginative use of graphics, color, texture, quality materials, scale and proportion Utility or enhance the architectural elements of the building or structure on which it is located Place in a logical location in relation to the overall composition of the building 		

Freestanding (pole) signs	<ul style="list-style-type: none"> • 1 per 1500 linear feet of street frontage; 1 per 600 linear feet of street frontage if located adjacent to US Hwy 40 outside of the CBD zone district 	<ul style="list-style-type: none"> • 64 sq. ft. per face 	<ul style="list-style-type: none"> • 15 ft.
Standards:	<ul style="list-style-type: none"> • Permitted project monument sign • No closer than 8 ft from any curb line nor closer than 4 ft to any building • No closer than 25 ft from any residential zoning district boundary • Mounting posts shall not exceed 12 inches in diameter 		
Monument signs	<ul style="list-style-type: none"> • 1 per entrance to project, complex or subdivision 	<ul style="list-style-type: none"> • 64 sq. ft. per face 	<ul style="list-style-type: none"> • 6 ft.
Standards:	<ul style="list-style-type: none"> • Design shall be consistent with overall scale of building • May contain only the name and address of the project • Landscaping shall be provided at base of supporting structure equal to twice the area of one face of the sign 		
Projecting signs	<ul style="list-style-type: none"> • 1 per individual building tenant building frontage 	<ul style="list-style-type: none"> • 18 sq. ft. 	<ul style="list-style-type: none"> • See <i>Standards</i>
Standards:	<ul style="list-style-type: none"> • Projecting signs are not permitted in conjunction with wall or freestanding signs • Shall only be placed on a ground floor façade except for businesses located above ground level with direct exterior pedestrian access • Generally, mount projecting signs so they are aligned with others in block and fit with architectural detail of structure helping create a “canopy line” • Shall not exceed the height of the wall to which sign is attached (if single-story) or height of bottom of any second story window (multi-story building) • Must have 8 ft. of vertical clearance • May not extend more than 4 ft. from building wall except where sign is integral part of approved canopy or awning 		

Wall signs	<ul style="list-style-type: none"> • 1 per individual building tenant building frontage 	<ul style="list-style-type: none"> • Sum of all awning, canopy and/or wall signs on a given wall shall not exceed 5% of the wall area 	<ul style="list-style-type: none"> • See <i>Standards</i>
<i>Standards:</i>	<ul style="list-style-type: none"> • Shall not be placed to obstruct any portion of a window, doorway or other architectural detail • Wall signs shall be located at the first floor level only for retail uses • No part of a wall sign shall be located more than 25 ft. above grade level nor shall they be higher than the eave line of the principal building • No sign part may project from the surface upon which it is attached more than 12 inches 		
Window signs	<ul style="list-style-type: none"> • 1 per business 	<ul style="list-style-type: none"> • 25% of window or door area 	<ul style="list-style-type: none"> • See <i>Standards</i>
<i>Standards:</i>	<ul style="list-style-type: none"> • May be placed on window or door, but not both • Cannot exceed 25% of total allowable sign area for the premises 		

7.24.230 Environmental Considerations

(a) **Intent.** The intent of this Section is to ensure that new development limits or mitigates its impact to wildlife and wildlife habitat and that it minimizes environmental impacts.

(b) **General Provisions.**

- (1) Protection of wildlife and natural areas. To the maximum extent practical, development shall be designed to ensure that disturbances which occur to any natural area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs a natural area, the development project shall mitigate such lost natural resource either on- or off-site at a 2:1 rate on a kind-for-kind basis and the mitigation shall be located within the 3-Mile Boundary identified in the Master Plan unless otherwise approved by Council. Any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance.
 - (i) Natural areas shall include: floodplains and floodways, natural drainage and water ways, significant native trees and vegetation, wildlife travel corridors and habitats, special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens, remnant native habitat, cottonwood galleries, and any jurisdictional wetland greater than one-quarter (1/4) acre in size.
 - (ii) The natural area buffer zone shall be used between natural areas and proposed development to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall be determined in conjunction with the Colorado Parks & Wildlife or a Town approved consultant. The Town may decrease this buffer when strict application of this subsection will impose an exceptional and undue hardship upon the property owner or developer as determined by Council.
 - (iii) *Exceptions.* The Council may allow disturbance or construction activity within the natural area or natural area buffer zone for the following limited purposes: mitigation of

development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby develop areas, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of a natural area.

- (iv) *Ecological characterization.* If the Town determines that the site likely includes areas with wildlife, plant life, and/or other natural characteristics in need of protection, the Town may require the developer to provide a report prepared by a professional qualified in the areas of ecology, wildlife biology, or other relevant discipline. The ecological characterization report should be included on the open space plan and describe the following:
 - (A) The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the areas is used by those species and the “value” (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;
 - (B) The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;
 - (C) Any prominent views from or across the site;
 - (D) The pattern, species, and location of any significant native trees and other native site vegetation;
 - (E) The bank, shoreline and high-water mark of any perennial stream or body of water on the site;
 - (F) Wildlife travel corridors, and
 - (G) The general ecological functions provided by the site and its features.
- (v) *Wildlife conflicts.* If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site. Any impacts to wildlife must be referred to the Colorado Parks & Wildlife and, in the case of locally identified threatened or endangered species, United States Fish and Wildlife Service.

7.24.240 Impacts or Nuisances

- (a) **Intent.** The intent of this section is to ensure that new multi-family, commercial, or industrial developments limit or mitigate their impact on other properties. This Section is intended to allow these developments while preventing or substantially minimizing the occurrence of public nuisances that would have a detrimental effect on the property of another person or the community at large.
- (b) **General Provisions.** As part of the Site Plan review process, any multi-family, commercial, retail, entertainment, or industrial project must provide information related to the impact of that proposal on adjacent properties. This provision is intended to prevent an excessive, offensive, annoying, unpleasant, or obnoxious thing, act, or practice; or a cause or source of annoyance, especially a

continual or repeated invasion by a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. All business uses are expected to generate normal and acceptable impacts such as noise, traffic, etc.; this Section is intended to address impacts that are excessive given the relationship of the proposed use to the overall nature of the larger residential setting found within commercially zoned lands in the Town. Examples of negative impacts or nuisances that may be generated by these types of development include but are not limited to:

- (1) Vehicular traffic
- (2) Noise from business operations
- (3) Dust
- (4) Heat
- (5) Glare
- (6) Vibration
- (7) Smoke
- (8) Light
- (9) Odor

Town staff or subject area experts hired by the Town will review all proposals regarding mitigation of any negative impacts or nuisances and provide direction to Applicants during the Site Plan review process. Approval of any Site Plan including a determination on whether or not impacts and nuisances have been mitigated will be per the standards of this Development Code.

7.24.250 Sanitary Sewer

All residential, commercial and industrial uses which have human occupancy shall have sanitary sewer. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development.

7.24.260 Potable Water

All residential, commercial and industrial uses, which have human occupancy, shall have potable water served by the Town. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.

7.24.270 Fire Hydrants

The developer shall install fire hydrants at street intersections and at other points as per the requirements of the West Rount Fire District and the Town.

7.24.280 Public Improvements Agreements

- (a) **Agreements and Improvements.** A Public Improvement Agreement (PIA) stating that the applicant agrees to construct any required public improvements shown in the Final Plat or Site Plan (if applicable) documents together with security in a form approved by the Town Attorney is required. No subdivision plat shall be signed by the Town or recorded at the office of the Routt County Clerk, and no building permit shall be issued for development until a PIA between the Town and the applicant has been executed. Such agreement shall include a list of all agreed-upon public improvements and landscaping, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the Council to ensure that all improvements will be completed in a timely, quality and cost-effective manner.
- (b) Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the Final Plat or Site Plan (if applicable) documents may also be required.
- (c) As required by this Development Code and all applicable laws, rules and regulations, the applicant shall apply to the Town for inspection of improvements.
- (d) The following improvements shall be constructed unless waived by the Council.
- (1) Road grading and surfacing.
 - (2) Curbs.
 - (3) Street lights.
 - (4) Sidewalks.
 - (5) Sanitary sewer collection system.
 - (6) Storm sewers or storm drainage system, as required.
 - (7) Potable water distribution.
 - (8) Fire hydrants.
 - (9) Utility distribution system for public parks and open space.
 - (10) Street signs at all street intersections.
 - (11) Permanent reference monuments and monument boxes.
 - (12) Underground telephone, electricity and gas lines.
 - (13) Berm or fence along major arterial and collector streets.
 - (14) Required landscaping, open space and park improvements.
 - (15) Tree lawns.
 - (16) Underdrains.
 - (17) Trails
 - (18) Required floodway improvements.
 - (19) Required irrigation ditch improvements.
 - (20) Required off-site improvements.

- (e) **Time for Completion.** The required time for the completion of all required improvements shall be two (2) years from the recording date of the final map, plan or plat. However, the Council may extend such time for completion upon request from the applicant. Upon completion of such improvements within the required time and approval thereof by the Council, the Town shall cause the cash, letter of credit or other accepted security to be released within thirty (30) days of the Town's acceptance of such improvements and receipt of the required as-built drawings. When such improvements are not completed within the required time, the Town may cause the proceeds of the cash, letter of credit or other accepted security to be used to complete the required improvements in accordance with the terms and provisions of the PIA.
- (f) **Partial Release of Security.** During construction of required improvements, the applicant may from time-to-time request the release by the Town of a portion of the security for improvements that have been inspected and approved by the Town. The required warranty period shall commence upon completion and initial approval of all required improvements in accordance with the terms and provisions of the PIA.
- (g) **Warranty.** All workmanship and materials for all required improvements shall be warranted by the applicant as specified in the PIA and this Development Code.

7.24.290 Conveyance of Water Rights as Part of Subdivision and/or Annexation

- (a) **Intent and Purpose.** It is the intent and purpose of this Section to further the health, safety and welfare of the citizens of the Town by requiring the dedication of water rights prior to the extension of treated or raw water service to new customers and to thereby assure an adequate and stable supply of water to the Town service area; to prevent the abandonment of water rights to the detriment of the Town; to ensure the financial stability of the Town water utility; and to promote the general welfare of the public. This Section, in part, provides a supplemental requirement for annexation pursuant to the Municipal Annexation Act of 1965, C.R.S. 1973, 31-8-101 et. seq. and is not to be construed as altering, modifying, eliminating or replacing any requirements set forth therein.
- (b) **Definitions.** As used in this Section, unless the context otherwise requires:
 - (1) Equivalent residential unit (EQR) means a number related to the volume of water consumptively used by a single-family residential unit housing a statistical average of 3.5 persons and having not more than two thousand five hundred (2,500) square feet of irrigated lawn or garden. The water consumption for water uses not associated with use at a single-family residence is considered to be equal to a volume of water, expressed in EQR units, as determined by the Town with guidance by the schedule provided in the Table of EQR's. The Town shall have sole and exclusive discretion in determining whether the basic dedication requirement should be increased or decreased, on a case-by-case basis, after consideration of the place, method, efficiency and operation of wastewater treatment for use served; provided, however, for residential uses, it is not the intent hereof for the Town to reassess the dedication requirement should such limits be exceeded.

The water consumption for each EQR is 1.0 acre-foot per year if wastewater is returned to the Yampa River system by the municipal wastewater treatment facilities serving the Town. For deliveries to customers utilizing wastewater treatment facilities which are 100 percent (100%) consumptive in nature without material effluent return flows to the Yampa River system, the water consumption for each EQR is 1.0 acre foot per year. For deliveries to water uses not utilizing the

Town's municipal wastewater treatment facilities it is assumed that no return flows are generated to the Yampa River system; this presumption may be rebutted by a licensed professional engineer's analysis of actual return flow efficiency of the wastewater system to be utilized. If wastewater efficiencies are less than those of Town sewer facilities but greater than a system which is totally consumptive, the water consumption per EQR shall be modified by the appropriate fraction. The consumptive use as to all other residential, but not commercial, uses is considered to bear the same ratio to the consumptive use of an average single-family residence as the EQR value assigned to that use in the respective tables of EQR's in this Section bears to the EQR value assigned to the single-family residence in the table of EQR's for the respective wastewater system utilized.) Consumptive use for commercial uses shall be determined by a licensed professional engineer based upon the circumstances of each particular case.

- (2) Annexation means the act of attaching, adding, joining, or uniting a parcel of land to the legal entity known as the Town of Hayden.
- (3) Subdivide is as a Subdivision is defined in this Development Code.
- (4) Appurtenant means belonging to, accessory or incident to, adjunct, appended, or annexed to.
- (5) Dedication means the conveyance of a water right to the Town, made by the owner, and the acceptance of such conveyance by the Town in accordance with this Section, for use by the Town through its municipal water system for service to the Town, its inhabitants, and water customers.
- (6) Water right means a decreed right to use in accordance with its priority a certain portion of the waters of the state by reason of the appropriation of the same.
- (7) Conveyance of 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.
- (8) Transfer of water rights or change of use to municipal use means all actions required under the laws of the State of Colorado to be brought in the water court and elsewhere to change said water right for use through and within the Town's water system. Such actions may include, but not by way of exclusion or limitation, a change in use to municipal uses, a plan for augmentation, a change in the type, place, or time of use, a change in the point of diversion, a change from a fixed point of diversion to alternate or supplemental points of diversion, a change from alternate or supplemental points of diversion to a fixed point of diversion, a change in the means of diversion, a change in the place of storage, a change from direct application to storage and subsequent application, a change from storage and subsequent application to direct application, a change from a fixed place of storage to alternate places of storage, a change from alternate places of storage, or any combination of such changes. Transfer of water rights includes transfer of conditional water rights as well as transfer of absolute water rights.
- (9) Lease means any grant for permissive use which results in the creation of a landlord-tenant relationship on a contractual basis.
- (10) Party means an individual, a partnership, a corporation, a municipality, or any other legal entity, public or private.
- (11) Historical use affidavit means a document which sets forth the following information concerning the water rights proposed for dedication:

- (i) The name(s) and address(es) of the owner(s) of the water rights proposed for dedication;
 - (ii) A legal description of the land to be annexed or provided with municipal water service;
 - (iii) The total number of acres to be annexed, subdivided, replatted, or provided with municipal water service and the current use of the property;
 - (iv) The total number of acres presently being irrigated and/or intended to remain in irrigation;
 - (v) A copy of all decrees concerning all water rights appurtenant to property and/or all water rights proposed for dedication;
 - (vi) A copy of any legal decree or judgment which affects the title of those water rights entered since the owner received title to the water rights appurtenant to the property and/or proposed for dedication;
 - (vii) A copy of the documents by which the owner received Title to the water rights appurtenant to the property and/or proposed for dedication;
 - (viii) A copy of all diversion records of the water rights proposed for dedication; and
 - (ix) The owner's statement as to the historic use of water rights appurtenant to the property and/or proposed for dedication.
- (12) Sufficient legal priority means that the water rights proposed for dedication may be reasonably expected to provide a dependable water supply throughout the season of use in the amount for which they are decreed, and that such water rights are reasonably expected to be transferable for use by the Town at its existing and proposed points of diversion for municipal use. In making this determination, factors to be considered shall include, but not by way of limitation, the adjudication date and appropriation date of water rights, the decreed use(s), the historic use of the water under the decree, the physical flow available, and the administration practices of the office of the State Engineer, and the location and amounts of other water rights which may be injured by any transfer, provided, however, that any water right proposed for dedication shall not be deemed to have sufficient legal priority unless the water right was lawfully adjudicated prior to January 1, 1900.

(c) Basic Dedication Requirement.

- (1) Dedication and transfer of direct flow and/or water rights to the Town shall be required:
 - (i) Prior to the approval of the annexation of any land to the Town; or
 - (ii) Prior to all extensions of municipally treated water service outside the Town limits as they existed on the effective date of this Section as originally codified; or
 - (iii) Prior to the subdivision or replatting of any land now located within the Town, if such subdivision or replatting requires a change of zone district or if such subdivision or replatting creates an increase in density.
- (2) The dedication requirement shall be calculated in accordance with this Section on forms provided by the Manager. Such forms shall be accompanied by a historical use affidavit. For those persons whose compliance with this Section results in a total EQR of greater than thirty (30) EQR no historical use affidavit shall be required, but an engineering analysis, acceptable to the Town, of the historic use of the water rights proposed for dedication shall be required.

- (3) The basic water rights dedication requirement shall be 0.75 acre foot of historic consumptive use per year, over the course of a full calendar year, for a water right, or water rights, of sufficient legal priority and season of use to service each equivalent residential unit (EQR) of demand as calculated under the table of EQR's below as determined by the Town in its sole discretion. The actual annual demand of 0.56 acre foot of consumptive use water assumes actual diversion, without transit losses throughout the year; it is assumed that the 0.75 acre foot of historic consumptive use water is necessary to satisfy said demand after reasonable transfer and transit losses. The determination of suitability of a water right for transfer or fee-in-lieu of water right dedication shall be determined in the Town's sole discretion. Payment of a fee in lieu of water right dedication will be at the sole discretion of the Town and at a rate of payment consistent with the provisions of this Section.
 - (4) The basic requirement shall be satisfied by the person seeking approval of annexation, subdivision, replatting, or the extension of municipally treated water service, whether or not that person will be the ultimate user(s).
- (d) **Table of EQR's** Nature of facility to be served EQR
- (1) Residential
 - (i) Single-family detached residence not to exceed 3,000 square feet, one full kitchen, two outside hose bibs and up to 2,500 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation = 1.00 EQR
 - (ii) Residences over 3,000 square feet will be charged an additional .05 EQR for each increment of 100 square feet and over 3,000 square feet of irrigated lawn and garden watered by sprinkler or drip irrigation
 - (2) Other requirements
 - (i) An annual average water demand equal to 0.56 acre feet = 1.00 EQR
 - (ii) An average monthly peak water demand equal to 22,000 gallons = 1.00 EQR
 - (iii) A peak daily demand of 1,000 gallons = 1.00 EQR
 - (3) Each additional 100 square feet of irrigated lawn and garden by sprinkler or drip irrigation = 0.02 EQR
 - (4) Each additional 100 square feet of non-residential irrigated landscape by sprinkler or drip irrigation. = 0.02 EQR
 - (5) Multi-family residential units, including duplexes, apartments and condominiums:
 - (i) Studio apartment or condo with one kitchen up to 1,500 square feet = 0.60 EQR
 - (ii) Up to and including two bedrooms with up to 1-1.2 baths and one kitchen, up to 1,500 square feet = 0.80 EQR
 - (iii) Three bedrooms with up to 2 baths and one kitchen, up to 3,000 square feet = 1.00 EQR
 - (iv) Each additional 100 square feet or fraction thereof, in excess of the above limits will be assessed 0.03 EQR. There shall not be an adjustment for fractional increments of less than 100 square feet.
 - (v) Each coin operated washing machine up to 12 lbs capacity = 0.35 EQR

- (vi) Common area irrigation and amenities such as swimming pools, clubhouses and laundry facilities to be assessed on a case-by case basis, at the Town's sole discretion, in addition to the EQR values expressed above.
- (6) There shall be no partial EQR credit granted for irrigation of less than 2,500 square feet of lawn or landscaping. Any uses described in subparagraph 1, above, which do not utilize municipal water for any irrigation, shall be:
 - (i) Entitled to a reduction in EQR rating of 0.02 EQR per 100 square feet of lawn or landscaping which is irrigated with non-potable water from a non-municipal system. The maximum credit which can be obtained for residential uses is 25% of the total EQR dedication requirement due from the project. However, if credit for any percentage of total EQR is obtained under this code provision, by irrigation from non-potable water from a non-municipal system, then the Town shall proportionately reduce the water delivered for the residential use;
 - (ii) Prohibited from having more than one outside hose bib which shall be placed on the front of the residence and shall not be used for any watering of lawns and gardens.
- (7) Each mobile home or mobile home space in a court with not more than 1,000 square feet of irrigated lawn and garden = 0.80 EQR
- (8) Transient rental units, hotels, motels or rental units within residences;
 - (i) Manager's units: Uses single family or multi-family classification as applicable.
 - (ii) Each additional room without cooking or kitchen facilities = 0.40 EQR
 - (iii) Each additional room with cooking or kitchen facilities = 0.50 EQR
 - (iv) Coin operated washing machine 12 lb. capacity or less = 0.30 EQR
- (9) Dormitories (per each rental bed space) without laundry or kitchen facilities = 0.10 EQR
- (10) Recreational vehicle parks:
 - (i) For each camping or vehicle space without sewer hook-up = 0.35 EQR
 - (ii) For each camping or vehicle space with sewer hook-up = 0.40 EQR
 - (iii) For common facilities, managers unit and related facilities, see categories above (spaces which have year-round occupancy are to be evaluated as mobile home parks).
- (11) Bars and restaurants:
 - (i) For businesses with less than 25 seats = 1.50 EQR
 - (ii) For each additional seat = 0.04 EQR
- (12) Service stations and gas stations:
 - (i) Full service station with 2 toilets, 2 lavatories and 1 hand wash bay = 1.00 EQR
 - (ii) Demands in excess of the above are determined by projected volume.
- (13) Churches and nonprofit organizations with no residence or regular eating facilities = 1.00 EQR

- (14) Commercial retail stores with no processed water, no residences and no eating facilities of up to 5,000 square feet including two restrooms which have a total of two lavatories and two toilets (one each per restroom) = 1.00 EQR
- (i) For each additional toilet or urinal with manual flush = 0.30 EQR
 - (ii) For each additional toilet or urinal with continuous flow = 1.00 EQR
 - (iii) For each additional lavatory = 0.15 EQR
 - (iv) For each shower or bath or combination = 0.30 EQR
 - (v) For each manual operated drinking fountain = 0.10 EQR
 - (vi) For each continuous flow drinking fountain = 1.00 EQR
 - (vii) For each additional 1,000 square feet of floor space above 5,000 feet = 0.02 EQR
- (15) Commercial offices (such as banks, professional office space and other low traffic occupations) with no processed water, no residences, and no eating facilities of up to 7,000 square feet including two restrooms which have a total of two lavatories and two toilets (one each per restroom) = 1.00 EQR
- (i) For each additional toilet or urinal with manual flush = 0.30 EQR
 - (ii) For each additional toilet or urinal with continuous flow = 1.00 EQR
 - (iii) For each additional lavatory = 0.15 EQR
 - (iv) For each shower or bath or combination = 0.30 EQR
 - (v) For each manual operated drinking fountain = 0.10 EQR
 - (vi) For each continuous flow drinking fountain = 1.00 EQR
 - (vii) For each additional 1,000 square feet of floor space above 7,000 feet = 0.14 EQR
- (16) Industrial, including warehouses up to 8,000 square feet which include two toilets (one each per restroom) = 1.00 EQR
- (i) For every 350 gallons/day of processed water with not more than 15% consumptive use = 1.00 EQR
 - (ii) For each additional toilet or urinal with manual flush = 0.30 EQR
 - (iii) For each additional toilet or urinal with continuous flow = 1.00 EQR
 - (iv) For each additional lavatory = 0.15 EQR
 - (v) For each shower or bath combination = 0.10 EQR
 - (vi) For each mop sink = 1.00 EQR
 - (vii) For each manual operated drinking fountain = 0.10 EQR
 - (viii) For each continuous flow drinking fountain = 1.00 EQR
 - (ix) For each additional 1,000 square feet of floor space above 8,000 feet = 0.13 EQR
- (17) Schools including principal's administrative office and school staff but not including cafeteria, gymnasium or athletic field facilities:

- (i) Up to 50 students = 1.00 EQR
 - (ii) For each additional student = 0.02 EQR
 - (iii) Cafeteria, gymnasium and athletic requirements determined on a case-by-case basis at the Town's sole discretion = 0.02 EQR
 - (iv) The foregoing shall be based on the projected maximum usage of the school facilities and shall be subject to a periodic audit as required by this Section.
- (18) Swimming pools up to 25,000-gallon capacity:
- (i) Year-round operation = 1.00 EQR
 - (ii) Summer only (less than 6 months) = 0.50 EQR
 - (iii) For each additional 1,000 gallons of capacity = 0.02 EQR
- (19) Fire protection sprinkler systems = 0.00 EQR
- (20) Irrigation by sprinkler or drip system:
- (i) Residential per 100 square feet = 0.02 EQR
 - (ii) Commercial per 100 square feet = 0.02 EQR
 - (iii) Commercial or residential irrigation of more than 5,000 square feet of lawn or landscaping shall be subject to special rates imposed by the Town at the Town's sole discretion.
- (21) Car washes:
- (i) All car washes will be based on water delivery requirements and consumptive use projections with EQR's to be determined by the Town at the Town's sole discretion.
- (22) Commercial Laundromats:
- (i) Each washer up to 12 lb. capacity = 0.35 EQR
 - (ii) For each additional pound of capacity over 12 lbs = 0.015 EQR

Uses which are not connected to the wastewater facilities of the Town will be evaluated by the location of the wastewater return point in setting, modifying or determining dedication requirements, in the Town's sole discretion. Additionally, uses which compute to be more than 3.0 EQR per tap connection are subject to review, calculations and assessment on an ad hoc basis by the Town after consideration of the anticipated water to be used.

- (e) **Dedication of Water Rights for Open Space.** The owner of any property proposed to be annexed or subdivided who dedicates property to the Town pursuant to this Section to be used for open space, park, aesthetic, recreation, or irrigation purposes shall also comply with the provisions of this Section for the property to be dedicated.
- (f) **Procedure.**
 - (1) In accordance with the basic requirements set forth in this Section, the Manager shall determine, after consultation with a person or persons skilled in the knowledge of water rights, whether the water rights proposed for dedication pursuant to the provisions of this Section will be of sufficient legal priority under the laws of the State of Colorado to ensure the Town's ability to meet the

service demands of the new user. This determination will be aided by a historic use affidavit or engineering report provided by the new user.

- (2) The Town shall have the right, in its sole discretion, to accept or reject any water rights proposed for dedication pursuant to the provisions of this Section which the Council has determined do not have sufficient legal priority. If the Council determines that the water rights proposed fail to satisfy the basic determination requirement, the following alternatives, or combination thereof, may be used to otherwise satisfy the basic dedication requirement:
 - (i) The person required to comply with the basic dedication requirement may pay to the Town a cash amount equal to the fair market value of the water rights necessary to satisfy the basic dedication requirement.
 - (ii) The Manager may, in his/her discretion, negotiate with the new user to establish other terms or conditions which shall constitute compliance with the basic dedication requirement of this Section.
- (3) The new user shall dedicate the water rights determined by the Town by filing with the Council an offer thereof. It is the intent of this Section that no water service shall be extended to a new user until the agreed to water rights have been dedicated to the Town; however, if there are matters pending resolution in the water court concerning the water rights to be dedicated, or if there is other delay beyond the control of the new user, the Manager shall have the discretion to approve the extension of such water service prior to the dedication of water rights to the Town.
- (4) Subject to negotiations with the Council, all costs and expenses attendant to the conveyance and transfer of water rights dedicated to the Town shall be borne by the new user. The Manager may, with the approval by the Council, to negotiate a one-time, up-front fee for small users to be paid by the developer and used by the Town for the costs of conveyance and transfer. Otherwise, the Manager shall establish a deposit requirement to be held by the Town and maintained by the new user to pay for such costs.
- (5) Any decision of the Manager made hereunder shall be appealable at the next regularly scheduled meeting of the Council, whose determination shall be final.
- (6) If the owner of the property proposed to be annexed or subdivided desires to retain the land or any portion thereof in agricultural production or as open space prior to development, he may be permitted to lease back, on an annual basis, and for irrigation, aesthetic and recreational purposes only, the water rights transferred pursuant to this Section. The terms of the lease shall be negotiated with the Council.

(g) Option to Purchase.

- (1) Time. Any person required to comply with the basic dedication requirement shall also grant to the Town the option to purchase any and all water rights which are appurtenant to the land to be annexed but which are in excess of the basic dedication requirement. Said option may be exercised by the Town at any time for a period of two (2) years following the date of the grant to the Town with regard to any or all of the water rights subject to the grant.
- (2) Price. The option price shall be that price agreed upon by the parties. If the parties do not agree upon an option price within thirty (30) days after the notice of the Town's intent to exercise its option is received by the owner, an appraisal at the Town's expense will establish the price that reflects the fair market value of the water right(s). The appraisal shall be conducted by one (1)

licensed Colorado appraiser appointed by the Town, one (1) licensed Colorado appraiser appointed by the owner of the water rights, and a third (3rd) licensed Colorado appraiser who shall be appointed by both parties. The average of the three (3) appraisals shall be the option price.

(3) Right of first refusal.

- (i)** Grant of right. In addition to the grant of the option to purchase by the new user(s), there shall be a grant to the Town by the user(s) of a right of first refusal regarding the water rights subject to said option to purchase. If the Town for any reason should choose not to exercise its option to purchase, it shall retain said first right of refusal, in the event the water rights are sold independently of the land, for a period of ten (10) years following annexation or final approval, or replatting, or extension of water service to a subdivision, whichever last occurs.
- (ii)** Notice period. If the owner of the water rights subject to said right of first (1st) refusal wishes to sell the water rights to a third (3rd) party, he shall give to the Town at least ninety (90) days notice of his intention to effect a sale of said water rights by delivering to the Town a bona fide written offer to purchase made by a third (3rd) party. Failure to notify the Town in accordance with right of first refusal shall be cause to invalidate any third (3rd) party sale.
- (iii)** Exercise of right. During the ninety (90) day notice period provided for above, the Town shall enjoy its right of first (1st) refusal entitling it to purchase the water rights proposed for sale. If within ninety (90) days following notice by the owner of his intention to sell his water rights, the Town chooses to exercise its right to purchase, then the Town shall pay to the owner the price for the water rights as specified in the bona fide offer in accordance with the terms of such bona fide offer. In the event that the Town determines to not exercise its right to purchase the water rights offered for sale, the owner shall be free to sell the water rights to the third party; provided, however, that any such sale to a third party shall be for a price which is at least equal to that price which was tendered to and refused by the Town.

Table 7.24-1 Dimensional Standards					
Abbreviations					
DU – Dwelling Unit (excludes ADU)		ADU – Accessory Dwelling Unit	sq ft – square feet	ft - feet	PC – Planning Commission
Standards	O – Open	RLD – Residential Low Density	RMD – Residential Medium Density	RHD – Residential High Density	MHR – Mobile Home Residential
Lot Area - Minimum	1 acre/DU; 1 acre/Conditional Use except as may be approved by PC; 1/2 acre for all other permitted uses	6,000 sq ft/DU	4,000 sq ft/DU	3,000 sq ft/detached DU; None for attached DUs	4,000 sq ft/DU
Lot Frontage – Minimum	150 ft per DU; 100 ft for other principal structures	50 ft	40 ft	40 ft/detached DU None for attached DUs	40 ft
Structure Height	2-1/2 stories or 25 feet	3-1/2 stories or 35 feet	3-1/2 stories or 35 feet	3-1/2 stories or 35 feet	2-1/2 stories or 25 feet
Structure Setbacks					
<ul style="list-style-type: none"> Front Minimum 	50 ft from property line	25 ft from property line	20 ft from property line */**	20 ft from property line */**	20 ft from edge of right of way ***
<ul style="list-style-type: none"> Side Minimum 	10 ft from property line	10 ft from property line *	10 ft from property line */**	10 ft from property line */**	20 ft between DUs or any service facility or building ***
<ul style="list-style-type: none"> Rear Minimum 	20 ft from property line	20 ft from property line	10 ft from property line */**	10 ft from property line */**	20 ft between DUs or any service facility or building ***
Other			A minimum of 20% for attached DU projects and 30% for detached DU projects shall be devoted to outdoor living areas including, but not limited to landscaping, patios, walkways, fences, gardens, play areas and similar areas, but excluding driveways and off-street parking areas	A minimum of 20% for attached DU projects and 30% for detached DU projects shall be devoted to outdoor living areas including, but not limited to landscaping, patios, walkways, fences, gardens, play areas and similar areas, but excluding driveways and off-street parking areas	<ul style="list-style-type: none"> Any newly created freestanding mobile home residential district shall be at least 5 acres in area A maximum gross density within a mobile home residential district shall be 10 units per acre

Table 7.24-1 Dimensional Standards				
Abbreviations				
DU – Dwelling Unit (excludes ADU)		ADU – Accessory Dwelling Unit	sq ft – square feet	ft - feet
		PC – Planning Commission		
Standards	CBD – Central Business District	C – Commercial District	I-1 – Light Industrial District	I-2 – Industrial District
Lot Area - Minimum	No minimum lot area except as required during site plan review	No minimum lot area except as required during site plan review	No minimum lot area except as required during site plan review	
Lot Frontage – Minimum	No minimum lot frontage except as required during site plan review	No minimum lot frontage except as required during site plan review	No minimum lot frontage except as required during site plan review	
Structure Height	3-1/2 stories or 35 feet	3-1/2 stories or 35 feet	3-1/2 stories or 35 feet	3-1/2 stories or 35 feet
Structure Setbacks				
● Front Minimum	No minimum lot frontage except as required during site plan review	No minimum lot frontage except as required during site plan review	20 ft from property line	50 ft from property line
● Side Minimum	No minimum lot frontage except as required during site plan review****	No minimum lot frontage except as required during site plan review****	15 ft from property line	30 ft from property line
● Rear Minimum	No minimum lot frontage except as required during site plan review****	No minimum lot frontage except as required during site plan review****	20 feet from property line	50 feet from property line
Other		On lots 1.5 acres or larger, setbacks on all sides of the property shall be a minimum of 25 ft		

*Accessory uses may have a side yard setback of 5 ft for a distance not to exceed 30 ft.

**Multi-family, cluster, zero lot line or attached single family dwelling setbacks will be per an approved Site Plan.

***Accessory buildings or structures including steps, patios, decks, storage units, garages and carports may have a 6-foot side or rear setback from other structures on adjoining lots or spaces; lots abutting a state or federal highway shall have a minimum required setback of 50 ft.

****A 10 ft setback is required if the property has contiguity to a residential zone district or property used solely for residential uses; alleys and roadways prevent contiguity in this case.

CHAPTER 7.28 – STANDARDS FOR SPECIFIC USES

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7.28.010 Purpose.

The following performance standards and mitigation measures apply to certain land uses allowed by this Development Code to assist in determining the compatibility with the surrounding uses and appropriate mitigation of negative impacts. These standards are in addition to the other applicable standards in this Development Code.

7.28.020 Accessory Dwelling Unit Standards.

Accessory dwelling units are defined as an apartment integrated within a single-family dwelling or located in a detached accessory building and may be located in any zone district upon meeting the standards.

- (a) **Accessory Dwelling Units.** Accessory dwelling units (ADU) are permitted upon conformance with the following standards:
- (1) ADUs are only permitted on lots with an existing single-family dwelling;
 - (2) ADUs must be located on the same lot as the single-family dwelling or a contiguous lot in the same ownership;
 - (3) ADUs are limited to eight hundred (800) square feet of habitable space, measured by the floor area within the walls of the structure including any basement but excluding garages, decks and unenclosed porches; and
 - (4) There shall be no more than one (1) ADU located on a lot.
- (b) **Density.** For the purposes of calculating residential density, each ADU shall count as one-half (1/2) dwelling unit.

7.28.030 Agritourism Enterprise Standards

- (a) **Intent.** Agritourism enterprises are intended to be incidental while supporting the agriculture uses of a working agricultural operation.
- (b) **General provisions.** Any agritourism enterprises must meet the following standards:
- (1) The agritourism enterprise must be operated by the owner or lessee of the agricultural use.
 - (2) Sales of products on-site shall be limited to those clearly incidental and accessory to the agritourism enterprise and identified through the permitting process.
 - (3) All federal, state and local permits shall be obtained and complied with. The operation shall comply with all local, state and federal laws.
 - (4) The access to serve the use shall be via a public road right-of-way, and adequate parking shall be provided. Parking on the road right-of-way is prohibited.
 - (5) Adequate sanitation facilities meeting the standards of the Routt County Environmental Health Department shall be provided.

7.28.040 AO Airport Overlay Zone District Standards

- (a) **Intent.** The intent of this overlay district is to define standards for Permitted Uses by Right and permitted uses on property related to the Yampa Valley Regional Airport (YVRA). Further, the intent is to allow land uses in the immediate vicinity of YVRA such as light industrial, commercial or business uses related to airport operations that are located, designed, constructed, and maintained in a manner that does not impair the safe operation of the Yampa Valley Regional Airport.
- (b) **Building Height Limit.**
- (1) No structure, except for airport buildings and associated structures, shall exceed two and one-half (2-1/2) stories or twenty-five feet (25') in height.
 - (2) Maximum height regulations lesser than those provided herein may be set by special airport zoning regulations for buildings in an airport approach zone.
 - (3) Airport buildings and structures shall not exceed fifty feet (50') in height, provided that a particular building, or buildings, may be permitted to exceed such height limit only upon the approval of a conditional use permit.
- (c) **Area Regulations.** All buildings and structures located in the Airport Overlay shall meet the minimum setback requirements of the underlying zoning district and any other applicable setback requirements set forth elsewhere in this Development Code.
- (d) **Prohibited Lighting and Electronic Signals.**
- (1) Any moving, pulsating, flashing, rotating, or oscillating light, other than navigational markings or lights marking potential obstructions in accordance with Federal Aviation Administration requirements;
 - (2) Flood lights, spot lights, or other lighting devices which are not shielded so as to prevent illumination in an upward direction;
 - (3) Any lights which make it difficult for pilots to distinguish between airport lights and others, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport or otherwise in any way endangers or interferes with the landing, takeoff or maneuvering of aircraft intending to use the airport.

- (4) Any electronic impulse or signal which interferes with radio communications between aircraft and the airport, or which interferes with established navigation aids, is prohibited in the Airport Overlay District.

7.28.050 Bed and Breakfast Standards

- (a) The owner or manager shall be a full-time resident of the bed and breakfast establishment.
- (b) All guest rooms shall be an integrated part of the principal dwelling unit, which shall have the appearance of a single-family home.
- (c) Cooking facilities are not permitted in the guest rooms.
- (d) Meals may only be served to the occupants of the bed and breakfast establishment.
- (e) There shall be no more than four (4) guest bedrooms.
- (f) Signage shall be limited to a maximum of four (4) square feet with downcast and shielded lighting, and shall only contain the name and address of the bed and breakfast establishment.

7.28.060 Childcare Centers and Homes Standards

- (a) Childcare centers and childcare homes shall be licensed by the Colorado Department of Human Services and meet all licensing requirements of the state.
- (b) Adequate employee parking and safe traffic circulation shall be provided and approved by the Hayden Chief of Police and Public Works Director.
- (c) Signage shall be limited to a maximum of four (4) square feet with downcast and shielded lighting, and shall only contain the name and address of the childcare center or childcare home.

7.28.070 Churches (or Similar Uses) Land Use Standards

- (a) **Applicability.** This Section applies to any application for a permit or approval under this Development Code involving a facility to be used for church or similar religious purposes or a use in connection with a church or similar religious activity. It is intended to comply with the Religious Land Use and Institutionalized Persons Act of 2000.
- (b) **Standards.** No process or provision contained in this Development Code shall be applied so as to impose, in connection with a church or similar religious purpose or activity, a substantial burden on the religious exercise of a person, a religious assembly or institution unless it is established by the Town that imposition of the burden is a) in furtherance of a compelling governmental interest; and b) is the least restrictive means of furthering that compelling governmental interest. A determination concerning these two criteria shall be made in accordance with the following guidelines:
 - (i) In the event that a person, a religious assembly or institution who or that has filed or intends to file an application for a permit or approval under this Development Code for what that person, assembly or institution contends is a church or similar religious purpose or activity, and also contends that some process or rule imposed by this Development Code in connection with the proposed church or similar religious purpose or activity constitutes or will constitute a substantial burden on the religious exercise of

that person, assembly or institution, such person, assembly or institution may request a prompt determination by the Council as to whether:

- (A) The proposed use or facility is a church or similar religious purpose or activity;
- (B) Whether the specified rule or process constitutes a substantial burden on the religious exercise by the person, assembly or institution;
- (C) Whether the burden imposed is in furtherance of a compelling governmental interest; and
- (D) Whether the burden imposed is the least restrictive means of furthering that compelling governmental interest.

The Manager shall have the burden of establishing criteria C. and D.

7.28.080 Farm Stand Standards

- (a) Facilities for the sale of agricultural products shall not exceed three hundred (300) square feet and shall comply with all building permit and associated standards.
- (b) Access to serve the use shall be approved by the Town Public Works Director.
- (c) Adequate parking shall be provided, and use of the public road right-of-way to provide parking shall be limited to the frontage of the property on which the farm stand is located.

7.28.090 Home Occupation Standards

- (a) The home occupation must be clearly incidental and secondary to the residential use of the dwelling unit;
- (b) The home occupation shall not exceed one thousand (1,000) square feet or thirty percent (30%) of the total floor area of the dwelling, whichever is less, or can be located in an accessory building not to exceed five hundred (500) square feet.
- (c) The use must be contained entirely within the dwelling unit or its accessory structures;
- (d) 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 including advertising signs or displays of advertising that solicits or directs persons to the address except one (1) non-animated, non-illuminated flat wall or window sign having an area of less than 100 square inches.
- (e) No equipment or process shall be used in the home occupation which creates any glare, fumes, odors or other objectionable conditions detectable to the normal senses outside of the property boundary.
- (f) No outside storage of goods, materials, equipment or anything else associated with the home occupation use is allowed except as permitted at (g) below.
- (g) The use shall not generate an amount of traffic which is a nuisance or which affects the residential character of the neighborhood. In addition, no more than one (1) vehicle (passenger vehicle, light utility truck, recreational vehicle or farm truck) associated with the home occupation use may be parked outside on the property.

7.28.100 Mobile Home Parks and Mobile Home Subdivisions Standards

- (a) **Intent.** To establish design standards for mobile homes, including Mobile Home Parks and Mobile Home Subdivisions.
- (b) **General provisions.** Mobile homes shall comply with the following standards:
 - (1) The mobile home must be partially or entirely manufactured in a factory.

- (2) The mobile home must be not less than fourteen (14) feet in width and twenty-nine (29) feet in length.
- (3) The mobile home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than twelve (12) inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the mobile home that is totally concealed under the structure.
- (4) The mobile home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the mobile home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized.
- (5) The mobile home must have a pitched roof with a pitch of at least a nominal three in twelve. The roof must be covered with shingles, shakes, standing seam metal panels or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls.
- (6) The mobile home must have windows with wood, vinyl coated, anodized aluminum or similar materials frames.
- (7) The mobile home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same.
- (8) The transportation mechanisms including the wheels, axles and hitch must be removed.
- (9) No mobile home shall be occupied for dwelling purposes unless it is properly placed in a mobile home space and connected to water, sewage, electric and gas utilities, as appropriate.
- (10) All mobile homes shall be certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. §5401, *et seq.*, as amended or shall be certified by the Colorado Division of Housing pursuant to C.R.S. § 24-32-701, *et seq.*
- (11) All mobile homes shall have an enclosed crawl space underneath the mobile home that shall not provide a shelter for rodents or create a fire hazard. No enclosed crawl space shall be used for storage unless the storage area is surfaced with concrete or water proof membrane. Adequate access and ventilation shall be provided in accordance with the *Guidelines for Manufactured Housing Installation*, including appendices, published by the International Conference of Building Officials for mobile homes and as adopted by the Town.
- (12) Additions to increase the floor area of mobile home shall not be permitted except for steps, patios, porches, garages, decks or carports. Garages and storage units may be detached or attached.
- (13) Prior to occupancy, the Building Official shall inspect each mobile home to determine compliance with applicable building codes. No occupancy shall be permitted or certificate of occupancy issued until said inspection and all connections to public utilities have been made. Installation procedures shall be in accordance with the then current *Guidelines for Manufactured Housing Installation*, including appendices, published by the International Conference of Building Officials for mobile homes and as adopted by the Town.
- (14) All additions shall comply with Structure Setback requirements in Table 7.24-1, Dimensional Standards, and a building permit shall be required in advance for any such addition.

(c) **Design Standards.** The following standards shall apply if in conflict with other standards in this Development Code:

(1) **Street Design Standards.**

- (i) All interior streets in a mobile home development shall be privately owned and maintained by the owner of the development and shall be a minimum width of twenty-two (22) feet from back of curb to back of curb, including the width of gutter pans. Private streets shall have a public access easement suitable for use by emergency vehicles.
- (ii) Primary through streets shall be thirty-four (34) feet from back of curb to back of curb with a four (4) foot detached sidewalk on one side being located six (6) feet from the back of curb.

(2) **Parking.** Every mobile home space shall have two (2) off-street parking spaces adjacent to the mobile home. There shall be one (1) additional parking space for each mobile home space within one hundred (100) feet for use of occupants and guests.

(3) **Pedestrian Circulation.** Developer shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks, if any are adjacent to the property. The system shall be designed to link residential units with recreation facilities, school bus stops and existing sidewalks in the neighborhoods. Detached sidewalks within the mobile home residential development shall be a minimum of four (4) feet in width.

(4) **Street and Sidewalk Lighting.** All streets and sidewalks shall be lighted in accordance with the standards contained in this Development Code.

(5) **Access and Circulation.** A mobile home development shall have two means of access to public streets at the perimeter of the site. Internal circulation may be provided by public or private streets, driveways and alleys. Each mobile home space shall be provided access to the internal circulation system. No mobile home space shall have direct access to a public street on the perimeter of the site.

(6) **Sidewalk Between Street and Mobile Home.** Concrete sidewalks shall be provided between the mobile home and the adjacent street sidewalk; except, the paved parking area may satisfy this requirement provided a sidewalk is provided from the parking area to the mobile home.

(7) **Traffic Control.**

- (i) Pursuant to C.R.S. § 42-4-1102, the Town elects to impose and enforce stop sign regulations, speed limits and parking restrictions posted in accordance with the Manual of Uniform Traffic Control Devices upon all highways and streets which are privately maintained in mobile home developments. The owner of the mobile home development shall provide such signs as may be required by a Traffic Engineer or Public Works Director, and agrees to erect and maintain such signs in conformity with the Model Traffic Code.
- (ii) The stop sign placement, speed limits and parking restrictions shall be determined by a Traffic Engineer or Public Works Director, and shall be consistent with the provisions of C.R.S. § 42-4-1101 to 42-4-1104 et al., C.R.S. § 42-4-1204, and C.R.S. § 42-4-1208.
- (iii) There shall be posted at each entrance to any such Mobile Home Park a sign giving notice of such enforcement in the following text: ***“NOTICE: Stop sign, speed limit and parking regulations enforced by the Town of Hayden.”***

- (iv) When all signs are in place, stop sign, speed limits and parking regulations shall be enforced and violations thereof punished in accordance with the provisions of the Model Traffic Code then in effect.
- (8) **Utility Design Requirement.**
 - (i) All public utilities shall be installed in accordance with the applicable Town or District standards.
 - (ii) All public utility distribution lines shall be placed underground.
 - (iii) A Mobile Home Park shall have a master meter or meters for water service.
- (9) **Mobile Home Space Landscaping.** The Developer shall provide front and rear mobile home space landscaping for each mobile home space, including but not limited to, sod and irrigation system and trees and shrubs. The Developer shall provide the Town with a graphic representation of “typical” mobile home space landscaping for each of the mobile home designs to be located in the mobile home development.
- (10) **Mobile Home Residential Development Perimeter and Common Space Landscaping.** The Developer shall landscape the perimeter and common open space of the mobile home development in accordance landscaping plans submitted to the Planning Commission for review and approval.
- (11) **Community Space.** No less than ten (10) percent of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in a location or locations convenient to all mobile home spaces.
- (12) **Tenant Storage.**
 - (i) A separate uniform tenant storage structure may be provided for each space, located on each space.
 - (ii) There may be a maximum of two hundred (200) square feet of storage area provided for each mobile home space.
 - (iii) Design and location of tenant storage shall enhance the appearance of the park and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings.
- (13) **Street Names, Addressing, Mail Delivery.** All streets shall be named on the MHR development plan and submitted by the owner to the Town, Routt County and U.S. Post Office for approval. Each space shall be numerically designated for address and mail purposes and signs furnished and installed by the mobile home residential developer. Cluster postal boxes will be provided at a central location(s) convenient to the residents. No individual street-side mail boxes are permitted unless otherwise approved by the Town.
- (14) **Solid Waste Disposal**
 - (i) The owner of the mobile home residential development shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage and handling that meet or exceed local, state or federal regulations.
 - (ii) The owner shall provide containers for the storage of solid wastes awaiting collection for each mobile home space. Containers are to be sized to completely contain twice the anticipated volume of solid wastes that are generated on the premises. Containers are to be watertight, impervious to insects and rodents and are to be kept off the street, curb, sidewalk and all other public ways, and concealed from public view, except on collection day.

(d) **Miscellaneous**

- (1) **Single Ownership of a Mobile Home Residential Development.** A mobile home residential development may not be converted to another use other than such uses provided for in the MHR development plan without the approval of the Council and meeting the appropriate lot size, lot width, setback and other requirements of the new use. No dwelling unit other than a mobile home shall be located within a mobile home residential development.
- (2) **Conformance of Mobile Home Residential Development to State Law.** A mobile home residential development and its operation shall conform to the provisions of the Mobile Home Park Act, C.R.S. § 38-12-201, *et seq.*

7.28.110 Oil, Gas and Other Hydrocarbon Well Drilling and Production Standards

- (a) **Intent.** The intent of these regulations is to facilitate the development of oil, gas and other hydrocarbon resources within the Town, while reserving the right to mitigate potential land use conflicts between such development and existing, as well as planned, land uses. Under Colorado law, the surface and mineral estates are separate and distinct interests in land and one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements. The State has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources, and in the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner. Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.
- (b) **General Provisions.** The standards in this Section shall apply to all conditional use permits granted for oil and gas wells, production, operations and related facilities.
- (c) **Building Permit.** Building permits must be obtained for all aboveground structures to which the Town's building codes apply pursuant to Title 15 Buildings and Construction.
- (d) **Permit Term.** Permits will be granted for the following time periods:
 - a. Two (2) years after date of approval, if permittee does not commence drilling and was granted a permit to drill by OGCC.
 - b. Three (3) years after date of approval, if permittee does not commence construction operations on a OGCC approved oil and gas location.
 - c. Upon expiration of permittee's OGCC permit.
- (e) **Well Location and Set-Backs.**
 - (1) All wells shall be set at a distance from occupied dwellings, permitted buildings, or rights-of-way at not less than the minimum setback allowed by the Colorado Oil and Gas Conservation Commission (OGCC) rules and regulations.
 - (2) Notwithstanding the foregoing, but subject to the exception in Subsection (iii) below, in all areas of the Town, the following apply:

- (i) A wellhead location shall be set back not less than three hundred fifty feet (350') from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five feet (75') from any public right-of-way.
- (ii) Production tanks and/or associated on-site production equipment shall be set back not less than three hundred fifty feet (350') from any occupied building or occupied building permitted for construction and shall be set back not less than seventy-five feet (75') from any public right-of-way.
- (iii) Location and setback requirements may be waived if an exception has been granted by the OGOC Director pursuant to applicable rules of the Commission and a copy of waivers from each person owning an occupied building or building permitted for construction within three hundred fifty feet of the proposed location is submitted as part of the application for use by conditional review.
- (iv) When wells are existing, buildings shall not be constructed within the following distances:
 - (A) Buildings unnecessary to the operation of the well shall not be constructed within two hundred feet (200') of any such well.
 - (B) Any building to be used as a place of assembly, institution or school shall not be constructed within three hundred fifty feet (350') of any well.
- (v) When wells are existing, lots and roads shall not be platted within the following distances:
 - (A) Lots shall not be platted within one hundred fifty feet (150') of an existing oil or gas well or its production facilities.
 - (B) Lots intended to be used as a place of assembly, institution or school shall not be platted to allow a building site within three hundred fifty feet (350') of an existing oil or gas well or its production facilities.
 - (C) Streets shall not be platted within seventy-five feet (75') of an existing oil or gas well or its production facilities, provided however, that streets may cross collection flow lines at right angles.
 - (D) Lots and streets may be platted over well and production sites that have been abandoned and reclaimed in accordance with the provisions of this Development Code. Such platting shall only occur after the completion of the abandonment and reclamation process.
- (f) **State Environmental Regulations.** The approval of a conditional use permit for operations under these standards shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal.
- (g) **Noise.**
 - (1) The conditional use permit application shall not relieve an operator from complying with all applicable state laws and regulations concerning noise.
 - (2) Exhaust from all engines, motors, coolers and other mechanized equipment shall be vented in a direction away from all occupied buildings to the extent practicable.
 - (3) Where a well and well site do not comply with the required setback or other requirements of this Section or where the well and well site are in an area of particular noise sensitivity, additional noise mitigation may be required. An area of particular noise sensitivity includes but is not limited to the following: hospitals, dwelling units, nursing homes, hotels, churches and designated wildlife preserves. In

determining noise mitigation, specific site characteristics shall be considered including, but not limited to the following:

- (i) Nature, proximity, location and type of adjacent development;
 - (ii) Prevailing weather patterns, including wind directions;
 - (iii) Vegetative cover on or adjacent to the site; and
 - (iv) Topography.
- (4) The level of required mitigation may increase with the proximity of the well and well site to areas of particular noise sensitivity or the level of noise emitted by the well and well site. One or more of the following additional noise abatement measures may be required:
- (i) Acoustically insulated housing or cover enclosing the motor or engine;
 - (ii) Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted, and proposed mitigation measures; or
 - (iii) Any abatement measures required by the OGCC for high-density areas, if applicable.

(h) Visual Impacts/Aesthetics.

(1) Visual Impacts and Aesthetics

- (i) To the maximum extent practicable, oil and gas facilities shall be located away from prominent natural features, such as distinctive rock and land forms, vegetative patterns, ditch crossings, Town or Routt County approved open space areas and other approved landmarks.
- (ii) To the maximum extent practicable, oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.
- (iii) To the maximum extent practicable, the applicant shall use structures of minimal size to satisfy present and future functional requirements.
- (iv) To the maximum extent practicable, when clearing trees and vegetation for construction of oil and gas facilities, the applicant shall feather and thin edges of vegetation. Applicant shall replant cleared trees and vegetation to screen facilities to the maximum extent practicable.
- (v) To the maximum extent practicable, the applicant shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.
- (vi) The applicant shall replace earth adjacent to water crossings at slopes less than the normal angle of repose with the soil type of the site.
- (vii) To the maximum extent practicable, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
- (viii) Facilities shall be painted as follows:
 - (A) Uniform, non-contrasting, non-reflective color tones.
 - (B) Color matched to land, not sky, slightly darker than adjacent landscape.
 - (C) Exposed concrete colored to match soil color.

- (2) Special Visual Mitigation Measures.** Where a well or well site does not comply with the required setback or other requirements of this Section, or in areas of increased visual sensitivity, such as a location

near an occupied subdivision, the applicant shall submit a visual mitigation plan including one or more of the following standards, as appropriate:

- (i) To the maximum extent practicable, exterior lighting shall be directed away from residential areas, or shielded from said areas to eliminate glare.
- (ii) One or more of the following landscaping practices may be required, where practicable, on a site-specific basis.
 - (A) Establishment and proper maintenance of ground covers, shrubs and trees.
 - (B) Shaping cuts and fills to appear as natural forms.
 - (C) Cutting rock areas to create irregular forms.
 - (D) Designing the facility to utilize natural screens.
 - (E) Construction of fences for use with or instead of landscaping.

(3) **Other Special Mitigation Measures.** The applicant shall keep the Town and private streets or roads reasonably free of mud or other materials during drilling and completion operations and during well operations. The applicant shall use its best efforts to keep the well site free of trash, litter and other refuse during and at the completion of drilling and shall not in any case bury said trash. The operator shall construct and manage pits in accordance with applicable state and federal regulations.

(i) **Abandonment and Plugging of Wells.** The approval of a conditional use permit under this Section shall not relieve the operator from complying with all OGCC rules with respect to abandonment and plugging of wells. The applicant shall abandon and begin reclamation activities including weed control and oversight of the establishment of revegetation of flow lines and in accordance with applicable state rules and regulations.

(j) **Seismic Operations.**

- a. The approval of a conditional use permit under this Section shall not relieve the operator from complying with all OGCC rules and regulations with respect to seismic operations. All notices which an operator is required to file with the Commission with respect to seismic operations shall be filed concurrently with the Town. The Town shall comply with the same confidentiality requirements which bind the OGCC.
- b. Any conditional use permit issued for seismic operations shall only be valid for six (6) months, unless otherwise approved.

(k) **Signage.** The approval of a conditional use permit under this Section shall not relieve the operator from complying with all OGCC rules and regulations with respect to signs. In addition, the operator shall maintain in good, readable condition all signs required by this Development Code.

(l) **Reclamation and Performance.**

- a. The operator is required to comply with all OGCC rules and regulations with respect to site reclamation as a condition of the conditional use permit.
- b. Unless all disturbance created by the operation is covered by a reclamation bond under the jurisdiction of the state or federally government, a bond or other acceptable financial performance guarantee shall be submitted in favor of the Town in an amount of at least one-hundred fifty percent (150%) of the cost of restoration of the site and access roads. The required amount of such financial performance guarantees may be increased at the discretion of the Manager to account for inflation. A bid for site restoration acceptable to the permittee and Town shall be submitted to the Manager as evidence of the cost of reclamation for bond setting purposes.

- c. The Council may require a financial performance guarantee in addition to that required by the state to ensure that certain conditions of a permit will be complied with. The required amount of such financial performance guarantees may be increased at the discretion of the Manager to account for inflation. The Town will not require financial guarantees that are duplicative of that required by the state. Copies of all financial guarantees related to the project shall be submitted to the Manager prior to the issuance of a conditional use permit including but not limited to those required by the county, state and federal government.
- (m) **Geologic Hazard, Floodplain, Floodway Location Restrictions.** All equipment at well sites and production sites in geological hazard and floodplain/floodway areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement or subsidence.
- (n) **Access Roads.** All private roads used to maintain access to the tank batteries or the well site shall be improved and maintained according to the following standards:
 - (1) Tank battery access roads. Access roads to tank batteries shall be subject to review by the Town Engineer and/or Public Works Director in accordance with the following minimum standards:
 - (I) A graded gravel roadway having a prepared sub grade and an aggregate base course surface a minimum of six inches (6") thick compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures. The aggregate material, at a minimum, shall meet the requirements for Class 3, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition.
 - (II) Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways (such as roadside swales, gulches, rivers, creeks and the like) by means of an adequate culvert pipe. Adequacy of the pipe is subject to approval of the Town Engineer and/or Public Works Director.
 - (III) Maintained so as to provide a passable roadway free of ruts at all times.
 - (2) Wellhead access roads. Access roads to wellheads shall be subject to review by the Town's Engineer and/or Public Works Director in accordance with the following minimum standards:
 - (I) A graded, dirt roadway compacted to a minimum density of ninety-five percent (95%) of the maximum density determined in accordance with generally accepted engineering sampling and testing procedures and approved by the Town Engineer and/or Public Works Director.
 - (II) Graded so as to provide drainage from the roadway surface and constructed to allow for cross drainage of waterways by means of an adequate culvert pipe. Adequacy of the pipe shall be subject to approval by the Town Engineer and/or Public Works Director.
 - (III) Maintained so as to provide a passable roadway generally free of ruts.
 - (3) Public access roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads as defined in Sections 42-4-401 through 42-4-411, C.R.S., which use Town streets. Said permit, if required, shall be obtained from the Town Clerk prior to such use. The applicant shall comply with all Town and state regulations regarding weight limitations on streets within the Town, and the applicant shall minimize extra-legal truck traffic on streets within the Town.

- (o) **Wildlife Impact Mitigation.** When a well site or production site is located within a designated moderate (blue) or high impact zone (red) on the most current version of the Cumulative Impact Maps prepared by the Colorado Division of Wildlife, the applicant shall consult with the Colorado Division of Parks & Wildlife to obtain recommendations for appropriate site specific and cumulative impact mitigation procedures. The operator shall implement such mitigation procedures as are recommended by Colorado Division of Parks & Wildlife after consultation with the Town. The applicant shall not engage in activities which, in the opinion of the Colorado Division of Parks & Wildlife, threaten endangered species.
- (p) **Emergency Response Costs.** As a condition of issuing a conditional use permit, the operator shall agree to reimburse the Town or the West Routt Fire District for any emergency response costs incurred by the Town or the West Routt Fire District in connection with activity at the well site or production site.

7.28.120 Outdoor Storage in Commercial (C) Zone District

Outdoor storage in Commercial (C) zone district may be permitted when such storage meets the following standards:

- (a) Outdoor storage may be permitted if adequately screened or fenced from adjoining roads or properties. Such may mean that display areas may be limited, requiring visual mitigation such as interior or fully screened storage of other on-site equipment and materials.
- (b) Access and parking areas shall be surfaced with asphalt, concrete or similar materials; however, where appropriate, the installation of porous pavement or other techniques to reduce runoff is encouraged.
- (c) Service areas, as well as circulation of delivery and shipping vehicles, shall be designed so as not to conflict with adjacent commercial uses.
- (d) The compatibility of overnight parking of vehicles on the site shall be evaluated on a case-by-case basis.

7.28.130 Recreational Vehicle Parks

(a) RV Park Development Standards

- (1) **Site Conditions.** Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- (2) **Soil and Groundcover.** Exposed ground surfaces in all parts of the recreational vehicle park shall be paved, or covered with stone screening or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- (3) **Drainage Requirements.** A storm drainage plan shall be developed for the recreational vehicle park.
- (4) **State Regulations and Standards.** All recreational vehicle parks shall meet the minimum standards of the Code of Colorado Regulations, 6 CCR 1010-9, Campgrounds and Recreation Areas, (see Appendices). In the event of a conflict between a standard or requirement contained in this Section and said Code of Colorado Regulations, the more restrictive standard shall prevail.

(b) RV Park Size and Density

- (1) **Park Size.** The minimum area for a recreational vehicle park is five (5) acres.
- (2) **Park Density.** The maximum density shall not exceed twelve (12) recreational vehicles per acre.
- (3) **Minimum Site Size.** Each recreational vehicle site shall contain a minimum of one thousand five hundred (1,500) square feet and shall have a minimum width of twenty-five (25) feet.

- (4) **Site Pads.** Each site shall contain a vehicle parking pad of concrete or asphalt paving. Minimum length of the parking pad shall be thirty-five (35) feet. No part of a recreational vehicle or other unit placed on the lot pad shall be closer than five (5) feet to the edge of the lot.
- (5) **Required Separation Between RV Vehicles.** Recreation vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings or carports for purposes of this separation requirement shall be considered to be part of the recreational vehicle.
- (6) **Site Identification.** Each site for the parking of the recreational vehicle shall be identified by numbers, a minimum of three (3) inches in height, posted in a conspicuous place at the front of the site.

(c) **Roadways and Parking**

- (1) **Interior Roads.** All interior two-way roads shall be twenty-eight (28) feet minimum width and all interior one-way roads shall be twenty (20) feet minimum width. All roads shall be paved with asphalt and crowned to facilitate drainage. Roadways shall be designed for the safe and convenient movement of vehicles.
- (2) **Parking Requirements.** At least one and one-half (1½) off-road parking spaces shall be provided in the park per recreation vehicle site. At least one (1) off-road parking space shall be provided at each site. No on-street parking will be permitted.

(d) **Entrances and Exits**

- (1) **Locations and Access.** No entrance or exit from a recreational vehicle park shall be permitted through a residential district nor require movement of traffic from the park through a residential district.
- (2) **Design of Access to Park.**
 - (i) Entrances and exits to recreational vehicle parks shall be designed for the safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets.
 - (ii) Each recreational vehicle park shall have a separate entrance and exit roadway, each of which shall not be less than twenty-eight (28) feet wide from flow line to flow line, shall be hard surfaced with asphalt or concrete and shall connect to a dedicated public right-of-way not less than forty (40) feet in width.
- (3) **Access onto State Highways.** Access onto state-controlled highways or roads will require a permit from the State Department of Transportation. The design of the access will be according to Department of Transportation requirements.
- (4) **Distance from Intersection.** Entrance driveways shall be located not closer than one hundred fifty (150) feet from the intersection of public streets.

(e) **Accessory Uses**

- (1) Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a recreational vehicle park and campground are permitted as accessory uses to the park.
- (2) In addition, stores, restaurants and other convenience establishments shall be permitted as accessory uses in recreational vehicle parks in districts where such uses are not allowed as principal uses, however such establishments and the parking areas primarily related to their operations shall not occupy more

than five (5) percent of the gross area of the park.

(f) Open Space and Recreational Areas

- (1) A general area or areas amounting to not less than ten (10) percent of the gross area of the recreational vehicle park, excluding any area dedicated as public right-of-way, shall be provided for recreation and open space use.
- (2) Such areas shall not include any area designated as a recreational vehicle space, storage area, required yard, service building or sanitary facility or waste station area.
- (3) Recreational facilities shall be included in the ten (10) percent requirement for open space.

(g) Buffering, Setbacks, Screening and Landscaping

- (1) **Yards and Setbacks.** Each recreational vehicle park shall set aside along the perimeter of the park the following areas which shall be landscaped and used for no other purpose:
 - (I) Minimum front setback - twenty-five (25) feet except when the recreational vehicle park fronts on a state highway; then the minimum shall be fifty (50) feet.
 - (II) Minimum side setback - when abutting residential districts, the side setback shall be fifty (50) feet; when abutting a dedicated public right-of-way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.
 - (III) Minimum rear setback - if the rear yard abuts a dedicated public right-of-way, the minimum shall be twenty-five (25) feet. If the rear yard abuts any other zoning district, the setback shall be fifteen (15) feet.

Summary of Yard Setbacks				
If yard abuts a:	<i>Residential District</i>	<i>Other District</i>	<i>Public Right-of-Way</i>	<i>State Highway</i>
<i>Front yard</i>	Not allowed	Not allowed	25'	50'
<i>Side yard</i>	50'	15'	25'	50'
<i>Rear yard</i>	50'	15'	25'	50'

- (2) **Landscaping.** A landscaping plan illustrating the placement and type of trees and shrubs must be submitted as part of the park development plan. The design of the landscaping must mitigate the visual impact of the recreational vehicle park on the surrounding area.
- (3) **Boundary Fencing.** Except for the front boundary, each recreational vehicle park shall be enclosed by attractive fencing.

(h) Utilities

- (1) **All Utilities Underground.** All public utilities within the recreational vehicle park shall be underground.
- (2) **Water Supply.** The water supply for the recreational vehicle park shall be provided by a delivery system that is owned and operated by a local government authority. The water system shall be connected by pipes to all service buildings and all recreational vehicle spaces. The water distribution system within the

park shall meet all local, state and federal rules and requirements.

- (3) **Sewage Disposal.** Facilities shall be provided and properly maintained for the collection and disposal or treatment and disposal of sewage. The sewage collection system within the park shall meet all local, state and federal rules and requirements.

(4) **Electricity and Natural Gas.**

- (I) An electric outlet approved by an electric utility shall be provided for each recreational vehicle space. The installation shall comply with all state and local electrical codes. Such electrical outlets shall be weatherproof.
- (II) Street and yard lights shall be provided in such number and intensity as to ensure safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during hours of darkness.
- (III) Where natural gas is provided, the installation will comply with all applicable State and Town regulations.

- (5) **Utility Plans.** Plans for water, sewer, electricity and natural gas along with letters of approval from the appropriate utility provider shall be submitted to the Town for approval.

(i) **Refuse Disposal**

- (1) The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents or other nuisance conditions.
- (2) Durable, watertight, easily cleanable refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than three hundred (300) feet from any campsite. Refuse containers shall be provided at the rate of eight (8) cubic feet (60 gallons) for each five (5) campsites. Individual trash cans at each recreational vehicle site may be provided. All containers for refuse shall be covered with close-fitting, insect impervious covers.
- (3) Refuse shall be collected and removed from the premises as often as necessary, but not less than once weekly, and disposed of at a lawful disposal site.
- (4) No burning of refuse will be permitted at the recreational vehicle park.

- (j) **Insect and Rodent Control.** Insects and domestic rodents shall be controlled by elimination of breeding and harborage sources, proper sanitary practices, extermination, vermin proofing of buildings and other approved control methods.

(k) **Fire Prevention and Protection**

- (1) All recreational vehicle parks shall comply with the current West Routt Fire District codes.
- (2) Hand fire extinguishers of a type approved by the West Routt Fire District shall be maintained in effective working order and located in convenient places in the ratio of one to eight (8) recreational vehicle spaces. The location of fire extinguishers must be approved by the Chief of the West Routt Fire District.
- (3) No outdoor fires will be allowed except in grills, ovens, stoves or park-provided fire boxes. Park-provided boxes must be approved by the West Routt Fire District. No open fires are allowed.
- (4) Fire hydrants shall be located so that every site within the park can be reached with three hundred (300) feet of hose or as approved by the West Routt Fire District.

(l) Sanitary Facilities

- (1) Sanitary facilities shall be provided and installed in accordance with the latest edition of the Uniform Plumbing Code adopted by the Town and meet the minimum standards of the Code of Colorado Regulations, 6 CCR 1010-9, Campgrounds and Recreation Areas.
- (2) No portable toilets will be allowed in recreational vehicle parks.

(m) Other

- (1) Liquid propane (LP) tanks on recreational vehicle sites shall be limited to one hundred (100) pound size.
- (2) Storage buildings, lean-tos, bins or other outside storage facilities shall not be allowed at recreational vehicle sites.
- (3) No recreational vehicle shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond six (6) months in any twelve-month period shall be presumed to be permanent occupancy. No more than one dwelling for occupancy by the Park Manager shall be permitted.
- (4) Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.
- (5) All recreational vehicles in the park must have a current valid registration,

(n) Responsibilities of Management

- (1) **Enforcement of Regulations.** The owner or operator of any recreational vehicle park shall arrange for the management and supervision of such recreational vehicle park so as to enforce or cause compliance with the provisions of this Section.
- (2) **Maintenance.** The owner, operator or attendant of every recreational vehicle park shall assume full responsibility for maintaining in good repair and condition all facilities of the recreational vehicle park as required herein.
- (3) **Office.** In every recreational vehicle park, there shall be a designated office building in which shall be located the office of the person in charge of said park. A copy of all required licenses and permits shall at all times be kept in said office.
- (4) **Management Duties.** It shall be the duty of the attendant or person in charge, together with the owner or operator, to:
 - (I) Keep at all times a register of all tenants (which shall be open at all times to inspections by state, county and federal officers and officers of the Town) showing for all tenants:
 - (A) Dates of entrance and departures.
 - (B) License numbers of all recreational vehicles and towing vehicles or automobiles.
 - (C) States issuing such license.
 - (II) Maintain the park in a clean, orderly and sanitary condition at all times.
 - (III) See that provisions of this Section are complied with and enforced and report promptly to the proper authorities any violations of law which may come to his or her attention.
 - (IV) Report to local health authorities all cases known to the owner to be infected with any communicable diseases.

- (V) Pay promptly to the Town all license fees and taxes required by Town ordinances or other laws.
- (VI) Prohibit the use of any recreational vehicle by a greater number of occupants than that which it is designed to accommodate.

7.28.140 Routt County Fairgrounds Uses & Standards

The Routt County Fairgrounds is a public use located on a large parcel in the Open (O) zone district for which a specific set of uses and associated standards have been developed as follows.

Table of Uses for Routt County Fairgrounds.

EVENT	PERMITTED USE-BY- RIGHT	ROUTT COUNTY FAIR, PERMITTED USE-BY- RIGHT ¹	ADMINI- STRATIVE PERMIT APPROVAL	MINOR PERMIT APPROVAL WITH APPR. LICENSE	LIMITATION ON HOURS ²
4-H/FFA AWARDS BANQUET	X				
CARNIVAL		X	X		X
CIRCUS		X	X		X
OUTDOOR CONCERTS		X	X		X
EQUESTRIAN EVENTS	X ³		X ³		X
SNOWMOBILE RACES			X		X
DEMOLITION DERBIES			X		X
MOTOCROSS EVENTS			X		X
MOTORIZED SHOWS		X	X		X
TRADE SHOWS		X	X		
HORSE RACING		X	X		

EVENT	PERMITTED USE-BY- RIGHT	ROUTT COUNTY FAIR, PERMITTED USE-BY- RIGHT ¹	ADMINI- STRATIVE PERMIT APPROVAL	MINOR PERMIT APPROVAL WITH APPR. LICENSE	LIMITATION ON HOURS ²
TRACTOR PULLS		X	X		X
CAMPING	X		X ⁴	X ⁶	
LIVESTOCK HOUSING	X				
ARCHERY & SHOOTING SPORTS		X ⁵	X	X ⁶	X
DANCES	X				
DANCES WITH ALCOHOL SALES				X ⁶	
WEDDING RECEPTIONS	X				X ²
WEDDING				X ⁶	
RECEPTIONS WITH ALCOHOL SALES					
FUNERAL DINNERS	X				
PRIVATE PARTIES	X				X ²
PRIVATE PARTIES WITH ALCOHOL SALES				X ⁶	
LIVESTOCK SALES	X ³				
TOOL SALES				X ⁶	
AUTOMOBILE SALES				X ⁶	

EVENT	PERMITTED USE-BY- RIGHT	ROUTT COUNTY FAIR, PERMITTED USE-BY- RIGHT ¹	ADMINI- STRATIVE PERMIT APPROVAL	MINOR PERMIT APPROVAL WITH APPR. LICENSE	LIMITATION ON HOURS ²
AUCTIONS, EXCLUDING LIVESTOCK (INDOOR & OUTDOOR)				X ⁶	
SEMINARS	X ³				
PUBLIC MEETINGS	X ³				
WORKSHOPS	X ³				
LIVESTOCK COMPETITIONS	X ³	X			

¹These are a Permitted Use-by-Right for the Routt County Fair only. If the item is not Fair-related, refer to the other designated use.

²Hours are limited to 9:00 p.m. on weeknights and 11:00 p.m. on weekends. Any event not ending by the specified time require an Administrative Permit to be approved.

³Permitted Use-by-Right for events with fewer than 250 participants (combination of people and livestock). Events not qualifying require an Administrative Permit to be approved.

⁴Limited to 20 sites other than during the County Fair and 14 consecutive days requires an Administrative Permit to be approved.

⁵Permitted Use-by-Right for 4H/FFA events with fewer than 250 participants (combination of people and livestock). Events not qualifying require an Administrative Permit to be approved.

⁶Administrative Permit denials may be appealed to Council.

7.28.150 Sand and Gravel Operations & Associated Equipment

(a) Rock crushers, concrete and asphalt mixing plants, sand and gravel pits or any other such excavation or surface mining may be allowed, provided they meet the following requirements:

- (1) The applicant shall provide a plan at the time of application showing the land proposed for excavation. This plan shall show the contours of the land on at least two-foot contour intervals, any improvements thereon and to a distance of three hundred feet (300') in all directions from the subject property. The Council may set out additional conditions under which these operations may be permitted and those conditions may vary by location.

- (2) Concurrent with the above, the applicant shall also provide a plan showing the contemplated changed condition of the land due to the excavation. This plan must include the contemplated re-use of the land, what restoration or curing of the land is planned, and the contours on at least two-foot intervals.
- (3) No excavation or processing of excavated materials shall be permitted nearer than thirty feet (30') to the boundary of adjacent property nor nearer than one hundred twenty-five feet (125') to any existing residence unless, by written agreement, the owner or owners of such adjacent property consent to a lesser distance and the Council approves such lesser distance. The Council may set a greater distance than stated above when, in their opinion, it is justified.
- (4) The Council shall specify the degree of slopes of banks for all excavations, the depth of and the distance from any public structures when excavations are made in or near streambeds. When excavations are near or adjacent to irrigation canals and ditches, the applicant shall secure a written agreement from the ditch company or from officials responsible for the canals and ditches indicating their determination as to setbacks from these rights-of-way when excavation is contemplated near such rights-of-way.
- (5) Sand and gravel shall be excavated in such a manner so as to assure the convenient restoration of the land and to hold to a minimum any adverse effects to adjacent land as a result of piling or storing the overburden material.
- (6) The sand and gravel shall be excavated in such a manner so as to leave an average of two feet of undisturbed sand or gravel as evenly as possible, over the entire excavation tract, to provide a water-bearing strata for any existing groundwater, and more if the Council deems necessary. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.
- (7) After an excavation has been completed, the operator shall spread evenly over the bottom of the excavation the excess waste materials. He then shall spread evenly the topsoil to a minimum depth of eighteen inches (18"). The topsoil shall be spread last so as to produce a new surface for the purpose of growing crops, trees, shrubs, etc.
- (8) An excavation operation shall maintain haulage roads within the premises covered by the permit and such roads shall be kept in a reasonable dust free condition when such dust would be injurious to bordering premises. The Council shall specify the conditions in each instance to ensure this requirement is met.
- (9) The hours of operation, unless otherwise specified by the Council shall be from 6 a.m. to 10 p.m. or unless special permission is granted by the Council.
- (10) Rock crushers, concrete and asphalt mixing plants may be permitted providing the Council finds that the use is accessory to the sand and gravel operation. All plants and processing equipment shall have current Colorado Department of Public Health and Environment (CDPHE) Air Pollution Permits and shall meet current CDPHE and local emissions standards for air and water. The Council may set more stringent requirements in certain locations.
- (11) Unless all disturbance created by the operation is covered by a reclamation bond under the jurisdiction of the state, a bond or other acceptable financial performance guarantee shall be submitted in favor of the Town in an amount of at least one-hundred fifty percent (150%) of the cost of restoration of the site and access roads. The required amount of such financial performance guarantees may be increased at the discretion of the Manager to account for inflation. A bid for site restoration acceptable to the permittee

and Town shall be submitted to the Manager as evidence of the cost of reclamation for bond setting purposes.

- (12) Conditional use permits for sand and gravel operations shall be in full force for a period of five (5) years from the date of issuance, thereof, unless otherwise approved by Council. Such permits may be renewable by the Council for the same period of time or otherwise, without further notice, hearing or posting of the property involved; provided, however, that the operator has complied with all the terms and conditions of the original permit. A renewal of a permit shall be considered as a new permit with respect to fees.
- (13) The Council shall have the power to cancel permits upon proof of violation of any of the regulations after due notice to the operator.

7.28.160 [Reserved]

7.28.170 Temporary Uses Standards.

Temporary uses are uses established for a limited duration with the intent to discontinue the temporary use upon the expiration a particular time period. Concrete or asphalt batch plants and gravel or mineral mining are prohibited from applying to the Town as temporary uses. Any temporary use shall not involve the construction or alteration of any permanent structure and may be located in any zone district.

- (a) **Temporary Use Categories.** There are three categories of temporary uses: Special Event, Site Location and Camping.
 - (1) **Special Event.** Special event uses can be for a time period of no more than thirty (30) days and include, but are not limited to, bike or running races, conventions, seasonal sales, sports tournaments, circuses, yard sales, fairs. Any permit issued for a Special event may be renewed a maximum of one (1) time for no more than thirty (30) days, and must be requested no less than seven (7) days prior to the permit's expiration.
 - (2) **Site Location.** Site location uses include the placement of construction or sales trailers at commercial, residential or industrial construction sites. Any permit issued for a Site location use expire upon the issuance of a certificate of occupancy for the associated permanent structure or substantial completion of site development work for an approved subdivision.
 - (3) **Camping, Temporary.** Temporary camping uses are allowed within the residential districts of Hayden. Camping may include RV, travel trailer, "pop-up" camper or tents and must be located on a site associated with a permitted permanent residential structure. Only one camping permit per residential lot or site is allowed at any one time, and permits are allowed for a maximum of fourteen (14) consecutive days, renewable three (3) times per calendar year, for a maximum of forty-two (42) days in any calendar year.
- (b) **Expiration of Permit.** Upon the expiration of any temporary use permit, the location of the use must be returned to its condition prior to the issuance of the permit by the Town.
- (c) **Appeal.** The decision of the Town Staff may be appealed pursuant to Section 7.16.110 Appeal and Variance.

7.28.180 Wireless Telecommunications

- (a) **Intent.** The intent of this Section is to set forth standards for the construction and installation of wireless telecommunication facilities and infrastructure.
- (b) **Height and Setback Requirements.** The following applies for wireless telecommunications service facilities as applicable:

 - (1) Roof- or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two and one-half (2-1/2) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval;
 - (2) Roof- or building-mounted whip antenna(s) of no more than three (3) inches in diameter, in groupings of five or less, may extend up to twelve (12) feet above the parapet wall; and
 - (3) Applicable zoning setback requirements of this Section must be met. At a minimum, all freestanding antenna or tower facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.
- (c) **Accessory Buildings Requirements**

 - (1) Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.
 - (2) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient by the Town.
- (d) **Building or Roof Mounted Facilities Requirements.** Building or roof mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.
- (e) **Freestanding Wireless Telecommunications Facilities Requirements.** All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:

 - (1) Capable of serving, through original construction, expansion or replacement, a minimum of two (2) users;
 - (2) Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved;
 - (3) Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings;
 - (4) Hold only lighting required by the Federal Aviation Administration; and no signage;
 - (5) No higher than fifty (50) feet from the ground, with an additional twenty (20) feet per co-locating user permitted, up to seventy (70) feet. Exceptions may be granted upon request by the applicant; and
 - (6) Constructed in accordance with a certified engineer's specifications and in compliance with all applicable U.B.C. provisions.

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Chapter 7.32 FLOOD REGULATIONS

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7.32.010 Findings of Fact

- (a) The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

7.32.020 Statement of Purpose.

The Council finds that there are, within the Town, floodplains which constitute natural hazards of state and local interest, that flooding may cause serious damage to properties and subject residents of such areas to hazards, that the occupation of such areas may cause the loss of human life and the destruction of property, and that the use and occupation of these areas may pose a continuing and greater future damage to life and property unless appropriate regulations are adopted concerning the use and occupation of such hazard area. The Council further finds that flood losses are caused by the cumulative effect of obstructions and improvements in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, under elevated, or otherwise unprotected from flood damage also contribute to the flood loss.

The purpose of these regulations is to promote the public health, safety and general welfare, and minimize flood hazards and losses by provisions designed to:

- (a) Promote sound planning and land use, and permit only such uses within floodplains that will not endanger life, health and public safety or property in times of flooding; and
- (b) Protect the public from avoidable financial expenditures for flood control projects, flood relief measures, and the repair and restoration of damaged public facilities; and

- (c) Prevent avoidable interruption of business and commerce; and
- (d) Attempt to maintain floodplain maps to assist all persons in identifying areas of special flood hazards; and
- (e) Facilitate the administration of flood hazard areas by establishing requirements that must be met before use or development is permitted; and
- (f) Minimize damage to public facilities and utilities such as water, sewer and gas mains, electric and telephone lines, as well as streets and bridges located in areas of special flood hazard, and
- (g) Help maintain a stable tax base by providing for a second use and development of areas of special flood hazard so as to minimize future flood blight areas; and
- (h) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and
- (i) Require that uses which are vulnerable to flooding, including public facilities shall be protected against flood damage at the time of initial construction; and
- (j) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (k) Ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

7.32.030 Definitions.

- (a) "Annual high water mark" means the visible line on the edge of a river, stream, lake, pond, spring or seep up to which the presence and action of water are so usual and long conditions (with a recurrence interval of one (1) year or less) so as to create a distinct character with respect to vegetation and the nature of the soil.
- (b) "Aquifer recharge area" means an area where water is absorbed into a natural aquifer adding to the zone of saturation.
- (c) "Area of special flood hazard" means the land in a floodplain subject to a one percent (1%) chance or greater of flooding in any given year, and, those zones on the Flood Insurance Rate Map ("FIRM") designated as A, AO, AE AH, AR A99, X or D zones, as well as any floodway designated or to be designated within the floodplain.
- (d) "Base flood" means a flood having a one percent (1%) chance of being equaled or exceeded in any given year. In the context of this article, Base Flood is used interchangeably with "one hundred year flood" or "one percent (1%) chance flood."
- (e) "Base Flood Elevation (BFE)" means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.
- (f) "Base floor elevation or base floor" means the lowest actual floor by elevation, in the structure, including basement irrespective of use of the floor space or of the structure itself.
- (g) "Basement" means the definition of "basement" as set forth in the most recent version of the International Building Code adopted by the Town.
- (h) "Berm" means a mound of earth used to screen or separate one (1) area from another to reduce visual, noise and similar impacts of development. "Berm" may also mean the act of pushing earth into a mound.
- (i) "Best Management Practice (BMP)" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs

also include treatment requirements, operating procedures and practice to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

- (j) "Channel" means a natural or artificial watercourse with definite bed and banks which confines or conducts continuously or intermittently flowing water.
- (k) "Conditional Letter of Map Revision (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.
- (l) "Critical facility" means a structure or related infrastructure, but not the land on which it is situated, as defined by the Colorado Water Conservation Board, a division of the Department of Natural Resources, Rules and Regulations for Regulatory Floodplains—Rule 6: "Critical Facilities" dated November 17, 2010, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
- (m) "Critical feature of Flood Control System" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- (n) "Detention basin" means a man-made or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of property, into natural or manmade outlets.
- (o) "Elevation reference mark-RMII" means the reference mark on the FIRM Map at elevation 6336.539, consisting of a brass disk, stamped "Z27 1933," located 104.0 feet west of northwest corner of the Denver and Salt Lake Railway Station, approximately 53.0 feet from the center of the road leading to the station, feet west of an irrigation ditch, and 280 feet south of the south rail of the main tract, and set in the top of a concrete post.
- (p) "Existing manufactured home park" or "manufactured home subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the Town.
- (q) "Expansion to existing manufactured home park or subdivision" 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).
- (r) "FEMA" means Federal Emergency Management Agency.
- (s) "Fill" means a deposit of materials of any kind placed by artificial means.
- (t) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - i. The overflow of water from channels and reservoir spillways;
 - ii. The unusual and rapid accumulation or runoff of surface waters from any source; or
 - iii. 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.
- (u) "Flood hazard area permit" means an official document required by this article for development or construction in an Area of Special Flood Hazard.

- (v)** "Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and risk premium zones applicable to the community.
- (w)** "Flood Insurance Study (FIS)" means the official report provided by FEMA. The report contains the FIRM as well as flood profiles for studied flooding courses that can be used to determine BFE for some areas.
- (x)** "Floodplain" or "flood prone 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.
- (y)** "Floodplain Administrator" means the Town Manager.
- (z)** "Flood proofing" means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real property, water and sanitary facilities, the structures and their contents.
- (aa)** "Floodway" means the channel of a river or other watercourse and the 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. The statewide standard for the designated height used for all newly studied reaches shall be one-half (0.5) foot.
- (bb)** "Letter of Map Revision (LOMR)" means FEMA's official revision of an effective 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 BFEs or SFHA.
- (cc)** "Letter of Map Revision Based on Fill (LOMR-F)" means FEMA's modification of the SFHA shown on the FIRM based on placement of fill outside the existing regulatory floodway.
- (dd)** "Levee" means a manmade structure, usually an earthen embankment, 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.
- (ee)** "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-resistance enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.
- (ff)** "Management agency" means the agency in charge of the "208 Water Quality Plan" in the Hayden area.
- (gg)** "Manufactured home" for the purpose of flood regulations means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- (hh)** "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- (ii)** "Obstruction" means any development, stockpile, refuse or matter in, along, across or projecting into any floodplain which might impede, retard or change the direction of a flow of water, either by itself or by collecting debris carried by such water.
- (jj)** "Official maps or map" means the FIRM Map (see above) and all associated floodplain maps used by the Administrator.

- (kk)** "Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the NFIP standards in §§ 60.3, 60.4, 60.5 or 60.6.
- (ll)** "Regulatory flood protection elevation" means the topographic elevation of one foot (1.0') above the water surface elevation of the base flood.
- (mm)** "Retention basin" means a pond, pool or basin used for permanent storage of water runoff.
- (nn)** "Risk premium zone" means a zone as specified on the FIRM Map as Zones A through A99, X and D.
- (oo)** "Special flood hazard area (SFHA)" means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.
- (pp)** "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:
- i. 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
 - ii. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (qq)** "Watercourse" means a natural or artificial channel, depression, dry wash, slough, gulch, arroyo, stream, creek or drainage way, pond, reservoir or lake in which water flows either continuously, intermittently or periodically.
- (rr)** "Water surface elevation" means the height, in relation to the NGVD of 1988 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- (ss)** "Zone A" means a zone on the FIRM map containing areas of 100-year flood where base flood elevations and flood hazard factors have not been determined.
- (tt)** "Zone AE" means areas of 100-year shallow flooding where depths are between one (1) and three (3) feet and base flood elevations are shown but no flood hazard factors are determined.
- (uu)** "Zone AH" means areas of 100-year shallow flooding where depths are between one (1) and three (3) feet where average depths of inundation are shown but no flood hazard factors are determined.
- (vv)** "Zone AO" means a zone on the FIRM map containing areas of 100-year flood where base flood depths of 1 to 3 feet average depths have been determined. For areas of alluvial fan flooding, velocities are also determined.
- (ww)** "Zone AR" means a zone on the FIRM map containing areas of special flood hazard formerly protected by a flood control system that was subsequently decertified. "Zone AR" indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood event.
- (xx)** "Zone A99" means area to be protected from 1% annual chance flood event by a Federal flood protection system under construction; no base flood elevations determined.
- (yy)** "Zone X" means areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; areas protected by levees from 1% annual chance flood.
- (zz)** "Zone D" means areas in which flood hazards are undetermined, but possible.

7.32.040 Methods of Reducing Flood Losses. In order to accomplish its purposes, this Article includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- (b) Controlling filling, grading, dredging and other development activities which may increase flood damage.
- (c) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (d) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel flood waters.
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

7.32.050 Lands to Which This Chapter 7.32 Applies. This Chapter 7.32 applies to all lands within the Town of Hayden which are in Areas of Special Flood Hazard, as determined by the FIRIM map, as the map may be amended from time to time.

7.32.060 Basis for Establishing the Areas of Special Flood Hazard. The Areas of Special Flood Hazards, as amended, identified by the Federal Insurance Administration, is a scientific and engineering report, entitled "Flood Insurance Study for Hayden," dated December 1977, with accompanying Flood Insurance Rate Map ("FIRM"), effective February 4, 2005, is hereby adopted and declared to be a part of this Chapter 7.32.

7.32.070 Compliance. No structure or land located within the Town of Hayden and within an Area of Special Flood Hazards, shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations.

7.32.080 Abrogation and Greater Restrictions. This Chapter is not intended to repeal, abrogate or impair any existing easement, covenants, deed restrictions or existing zoning or subdivision ordinances. Where this Article and other Articles conflict or overlap, whichever imposes the more stringent restriction shall prevail. Nothing in this Article shall be construed as exempting an applicant for a Flood Hazard Area Permit, as defined in this Article, from any other requirement of this jurisdiction or from other state or federal laws and regulations. In particular, the requirements of this Article shall be supplementary to the requirements of the Zoning and Subdivision Articles of this Code, and said Code shall apply in all cases.

7.32.090 Interpretation

(a) In the interpretation and application of this Article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit or repeal any other powers granted under state statutes.

(b) **Exemptions-Nonconforming Structures or Uses.** The provisions of this Article shall not apply to a nonconforming structure or use existing on the date the area in which the nonconforming structure or use is located becomes subject to this Article. When such nonconforming use is discontinued for six months or more, or when such nonconforming structure

is damaged or destroyed by flood, fire, wind or any other means to the extent of at least fifty percent (50%) of the market value, as determined by the permitting authority any reuse, reconstruction or replacement of such structure or use shall be deemed a new use and shall be subject to the provisions of this Article including the requirement to apply for and obtain a Flood Hazard Area Permit. Nonconforming structures or uses shall not be expanded upon or, if removed, shall not be reinstalled or reconstructed as nonconforming structures or uses without being considered new structures or uses and becoming subject to this Article. Substantial improvement, as herein defined, to any nonconforming structure or use will be permitted if, and only if, the structure or use is designated as a conforming structure or use and all other applicable provisions of this Article have been met, subject to the provisions of Article 3: Zoning. Moreover, the provisions of this Article shall not apply to any device or structure reasonably held necessary for the diversion or storage of water or for flood control or prevention, so long as such device or structure has been appropriately designed and constructed to minimize potential flood hazards.

- (c) **Interpretation of Official Maps.** Where interpretation is needed as to the exact location of the boundaries of floodplain or portions thereof, the Administrator may reasonably utilize any base flood elevation and floodway data by referring, as necessary, to the Flood Insurance Study of Hayden, to the professional engineers who prepared the study, to the Colorado Water Conservation Board (CWCB), and/or the Federal Insurance Administration, a Division of the Federal Emergency Management Agency (FEMA). If available, the elevation tables shall be the governing factor in determining accurate boundaries and shall take precedence over the boundaries shown on the map.

7.32.100 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. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the Areas of Special Flood Hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on part of the Town, any officer or employee thereof, or the Federal Emergency Management Agency, or the Colorado Water Conservation Board, for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.

7.32.110 Establishment of Development Permit. A permit shall be obtained before construction or development begins within any Area of Special Flood Hazards. Application for a Permit shall be made on forms furnished by the Town.

7.32.120 Designation of the Local Administrator. The Manager shall act as the Floodplain Administrator under this Chapter.

7.32.130 Duties and Responsibilities of the Local Administrator. The duties and responsibilities of the Floodplain Administrator shall include the following:

(a) **Permit review.**

- (1) Review all Flood Hazard Area Permits to determine that the permit requirements of this Article have been satisfied;
- (2) Review all Flood Hazard Area Permits to determine that all necessary permits have been obtained from Federal, state, or other local governmental agencies from which prior approval is required;
- (3) Review all Flood Hazard Area Permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of this Article are met; and
- (4) Review all Flood Hazard Area Permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. The cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half foot (0.5') at any one point.
- (5) Pursuant to this Article, undertake all necessary enforcement measures required for the proper administration of this Article.

(b) Permit Issuance.

- (1)** Issue or deny a Flood Hazard Area Permit for any proposal for which is found to be in conformance or noncompliance with the requirements of these regulations.
- (2)** In addition to the development standards and requirements contained herein, the Floodplain Administrator shall determine the specific flood hazard at the site and shall evaluate the suitability of the proposed use in relation to the flood hazard. In addition, although not limited to such factors, the Administrator shall consider the following factors:
 - i. The probability that materials may be swept onto other lands or downstream to the injury of others.
 - ii. The proposed water supply and sanitation systems and other utility systems and the ability of these systems to prevent disease contamination and unsanitary or hazardous conditions during and after a flood.
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage to the individual owner.
 - iv. The availability of alternative locations not subject to flooding for the proposed use.
 - v. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - vi. The expected heights velocity, duration, rate of rise and sediment transport of the floodwater at the site.
 - vii. The existence of flood warning systems to notify floodplain occupants of impending floods.
 - viii. The cumulative effect of the proposed development, with other existing or anticipated uses, in increasing potential flood hazards.

(c) Obtain and Maintain Information. Maintain for public inspection all records and files pertaining to the provisions of this Article, including actual elevation(s) of construction and development in the floodplain; Flood proofing and elevation certifications; and any interpretations made as to the exact location of the boundaries of the areas of special flood hazards.

(d) Alteration of Watercourses. The Administrator shall notify Routt County and the State Flood Coordinating Agency which, is presently the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency; and, require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished. This may require the Council entering into a contractual arrangement with the permit applicant prior to issuance of the Flood Hazard Area Permit. Before any alterations to watercourses, the Applicant shall present to the Administrator copies of all permits or applications therefore required by federal and state agencies for alterations of the floodplain including CWOB, FEMA and the US Army Corp of Engineers.

(e) Amendments. The requirements, restrictions and boundaries set forth in this Article may from time to time be amended, supplemented, changed or repealed in accordance with the procedures set forth below.

- (1)** Amendments to the requirements or restrictions of this Article or to the boundaries on the Official Maps and any adopted reports or supporting materials, shall be officially made by the Council only after such changes are reviewed by the Planning and Zoning Commission, legal notification to the public, official approval and designation of the base flood data by the Colorado Water Conservation Board, review by the Federal Emergency Management Agency, publication in full of the Ordinance adopting such maps and supporting materials, filing of not less than three copies of such adopting Ordinance with the Town Clerk at least 15 days before the public hearing, and a public hearing.
- (2)** After adoption of such maps and supporting materials, at least one copy of the adopting Ordinance shall be kept on file with the Administrator.

- (3) All expenses associated with amendments initiated by an Application for a Flood Hazard Area Permit shall be paid by the Permit Applicant.
- (f) **Severability.** If any Article, clause, provision, portion or portions of the Article should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this Article shall not be affected thereby and is hereby declared to be necessary for the public health, safety and welfare.

7.32.140 Variance Procedure

- (a) The Board of Adjustments shall hear and decide appeals and requests for variances from the requirements of this Article.
 - (1) The BOA shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination by the Administrator in the enforcement of this Article.
 - (2) All appeals to the BOA must be filed with the BOA not later than thirty (30) days after the date of the decision of the Administrator.
 - (3) Those parties aggrieved by a final decision of the BOA may appeal such decision to the Council. All appeals to the Council must be filed with the Town Clerk not later than thirty days after the date of the decision of the BOA.
 - (4) In passing upon such applications, the BOA shall consider recommendations and comments of the Planning Commission and the Administrator, all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and the impact that the application may have on the following:
 - i. The danger that material may be swept onto other lands to the injury of others;
 - ii. The danger to life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed application and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed application to the Town;
 - v. The necessity to the application of a location in close proximity of floodways where applicable;
 - vi. The availability of alternative locations for the proposed application which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed application with the existing and anticipated development in the surrounding area;
 - viii. The relationship of the proposed application to the comprehensive plan;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise and sediment, transport of the floodwater and the effects of wave action, if applicable, expected at the site;
 - xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system, street and bridges; and
 - xii. Any other relevant evidence submitted by the Administrator, the Colorado Water Conservation Board, the Applicant, or other interested parties.
 - (5) Upon consideration of the factors mentioned above and the purposes of this Article, the Appeals Board may attach such conditions to the granting of a variance as is deemed necessary to further the purposes of this Article.
 - (6) The Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Colorado Water Conservation Board and the Federal Emergency Management Agency.

(b) Conditions for Variances. Variances may be issued for the following:

- (1) New construction and substantial improvements to be erected on a lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing all items in this Article have been fully considered.
- (2) For the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Colorado Inventory of Historic Places.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result from the issuance of such variance.
- (4) Variances shall only be issued upon a determination of the following
 - i. That the variance is the minimum necessary considering the flood hazard to afford relief;
 - ii. A showing of good and sufficient cause;
 - iii. That the failure to grant the variance would result in exceptional hardship to the applicant; and
 - iv. That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances or conflict with existing local laws or ordinances.
- (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a base 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) The Administrator reviewing the permit application may waive any of the requirements specified above or require additional information, depending upon the scope of development and construction as well as the specific location within the floodplain including, but not limited to, detailed plans regarding site specific analysis, both natural and man-made, existing and proposed roads, parking and open space, grading plan, utility plan, landscaping plan and any other information deemed necessary by the Administrator.

(c) Enforcement and Penalties.

- (1) The Administrator is hereby empowered and directed to inspect and examine the use, occupation or development of floodplain subject to this Article for the purpose of determining from time to time whether any use, occupation, development or activity is in violation of any of the provisions of this Article or in violation of any permit issued or required pursuant to these or other applicable Ordinances.
- (2) Prior to the issuance of a Certificate of Occupancy, a structure(s) built after issuance of a Flood Hazard Area Permit is to be inspected to assure that it was built in full compliance with the permit and applicable requirements. In addition, the Administrator shall require the Applicant to obtain a certificate from a registered professional or licensed land surveyor, licensed in the State of Colorado, indicating the as-built elevation of the base floor of any building or the as-built flood proofed elevation of any flood proofed non-residential structure located in the floodplain, is in compliance with all provisions of this Article.
- (3) If a violation of this Article is found to exist, the Administrator shall, by written order to the violator, direct that action be taken immediately to result in full compliance with the applicable provisions of this Article. No Certificate of Occupancy shall be issued until the Flood Hazard Area Permit applicant has made sufficient remedial measures and mitigation actions necessary to comply with the requirements of this Article to the full satisfaction of the Administrator and to insure the issuance of flood damage insurance by the appropriate agency.
- (4) However, the issuance of such compliance order by the Administrator shall in no way or manner be the sole or exclusive enforcement proceedings as are set forth in this Article. Provided further that compliance with such order

shall not necessarily be deemed to be a defense to any alleged violation of these regulations in any court action instituted seeking full compliance therewith.

- (d) **Violations.** It is unlawful to erect, construct, reconstruct, alter, maintain or use any building or structure or to use any land in violation of this Chapter. Any violation of this Chapter is punishable by a fine of up to \$500 or imprisonment for a period not to exceed 90 days, or both such fine and imprisonment. The Administrator may restrain and prevent occupancy of a building, structure or land in violation of this Article.

7.32.150 General Standards for Flood Hazard Reduction. The following standards shall apply in all Areas of Special Flood Hazards:

- (a) **Prohibited Uses.** No development, alteration in, on or over Areas of Special Flood Hazards shall be permitted which alone or cumulatively with other such uses would cause or result in:
- (1) The storing or processing of materials that are buoyant flammable explosive, radioactive or otherwise potentially injurious to human or plant life.
 - (2) The disposal of garbage or other solid or liquid waste materials.
 - (3) The potential of substantial solid debris or waste being carried downstream.
- (b) **Utilities.**
- (1) All new and replacement water supply systems shall be designed to eliminate infiltration of flood waters into the system; and
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into flood waters; and
 - (3) On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding, and
 - (4) All water systems and waste disposal systems shall be located so as to minimize the encouragement of further residential commercial or industrial development in the floodplain; and
 - (5) Electrical heating ventilation, plumbing and air conditioning equipment or other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (c) **Subdivision Proposals.**
- (1) All subdivision approvals shall be consistent with the need to minimize flood damage; and
 - (2) All subdivision proposals shall reflect public utilities and facilities such as sewer gas electrical and water systems located and constructed to minimize flood damage; and
 - (3) All subdivision proposals shall have adequate site drainage provided to reduce exposure to flood damage; and
 - (4) Base flood elevation data using, as an initial reference point Elevation Reference Mark - RMI shall be provided with subdivision proposals and other proposed development which contain at least twenty-five (25) lots or five (5) acres, whichever is less. If it becomes necessary to interpret the Official Maps or make necessary base flood elevation decisions, provisions of this Article shall apply.
 - (5) These standards shall be reviewed and evaluated during the processing and review of the subdivision approval process, as required by this Code. If this Article is in conflict with these standards the most stringent shall apply.
 - (6) Additional standards which shall apply to zoning and subdivisions in areas of Special Flood Hazards are as follows:

- i. Every lot shall have a building site which is located entirely above the base flood elevation.
- ii. No structures, pavement or development shall be planned in a designated floodway unless it can be demonstrated that the base flood conditions are not altered.
- iii. Streets should be located above the level of the base flood.

(d) Anchoring.

- (1) All new construction and substantial improvements shall be designed and sufficiently anchored to prevent flotation, collapse or lateral movement of the structure and to withstand hydrodynamic loads.
- (2) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Minimum requirements shall be that:
 - i. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations with manufactured homes less than fifty feet (50') long requiring one additional tie per side; and
 - ii. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points, with manufactured homes less than fifty feet (50') long requiring four additional ties per side; and
 - iii. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and
 - iv. Any additions to the manufactured homes shall be similarly anchored to resist flotation, collapse and lateral movement.

(e) Construction Materials and Methods.

- (1) All new construction and substantial improvements shall be constructed with materials and equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Where fill is utilized as a method of elevation of a structure, such fill shall extend fifteen feet (15') beyond the exterior walls of the structure.
- (4) Grading and preparation of fill shall meet the standards set forth in Chapter 70, "Grading and Excavation," of the Uniform Building Code (1985 Edition), or as adopted.
- (5) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7.32.160 Specific Standards.

- (a) In all areas of Special Flood Hazards where base flood elevation data has been provided by FIRM Map, charts and graphs, the following provisions are required:

- (1) **Residential Construction.** New construction and substantial improvement of any residential structure shall have the base floor elevated to or above the regulatory flood protection elevation.
- (2) **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the base floor elevated to the level of the regulatory flood protection elevation or together with requisite utility and sanitary facilities, meet the following requirements:
 - i. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; and
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. Provide that where a nonresidential structure is intended to be made watertight below the base flood level, (i) a registered 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 for meeting the applicable provisions of this section, and (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained with the official designated by the Town.

(b) Specific Standards Where Base Flood Elevations Are Not Provided.

- (1) Areas of unknown base flood elevations. In all areas of Special Flood Hazards where base flood elevations are unknown, such as in Zone A, all new construction and substantial improvements of any residential or nonresidential structure(s) shall have the base floor elevation including basement elevated equal to or above the estimated base flood elevation, as determined by the Administrator, pursuant to this Article.
- (2) In A, AE and X Zones. In any A, AE or X Zone on the FIRM Map all new construction and substantial improvements of residential or nonresidential structures shall meet the following requirements:
 - i. Its base floor elevation shall be elevated above the highest adjacent grade and as high as the flood depth number specified in feet on the FIRM Map, or if no flood depth number is specified then at least two feet higher than the highest adjacent grade;
 - ii. Together with requisite utility and sanitary facilities be completely flood proofed to the level to meet the Flood proofing standards specified in this Article, and
 - iii. Adequate drainage paths shall be provided around structures on slopes to guide flood waters around and away from structure.

(c) Specific Construction Criteria.

- (1) Applies to manufactured homes to be placed on a single lot or in a new or expansion to an existing manufactured home park or subdivision. Requires that manufactured homes that are placed or substantially improved within Zones A, AE, and X on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (2) Applies to manufactured homes to be placed in an existing manufactured home park or subdivision prior to the time these regulations are implemented. Requires that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions within Zones A, AE and X that are not

subject to the provisions of the previous paragraph be elevated so that either (i) the lowest floor of the manufactured home is at or above the base flood elevation, or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (d) **Floodways.** There are located within areas of Special Flood Hazards established in areas designated on the Flood Insurance Rate Map as floodways or areas that can be determined by the Administrator as floodways in the absence of designation on the FIRM Map. Since the floodway is extremely hazardous, the following provisions shall apply to all floodways:
- (1) The alteration of any channel shall be minimized, except as may be required for improvement of wildlife habitat, or public health, safety and welfare; provided, however, that in no instance shall such alteration result in any increase in flood levels during the occurrence of the base flood discharge.
 - (2) Encroachments including fill, new construction, substantial improvements, placement of bridges and drainage structures, and other development are prohibited unless certification by a registered professional engineer, licensed in the State of Colorado, is provided demonstrating that such encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
 - (3) If the above paragraph is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Article.