



PLANNING COMMISSION REGULAR MEETING
Zoom Webinar and/or Town Council Chamber
3 S. Timber Ridge Parkway, Severance, CO 80550

AGENDA
PLANNING COMMISSION REGULAR MEETING
Wednesday, January 15, 2025, at 6:00 PM

A. CALL TO ORDER

1. Roll Call
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment

The purpose of the Public Comment is for members of the public to speak to the Planning Commission on any subject not scheduled on the agenda. To accomplish scheduled agenda items, comments should be limited to three minute for those attending in person or an appropriate time as deemed by the Chair. The Planning Commission shall make no decisions or take action on comments, but may choose to schedule the matter for a decision later. Those addressing the Planning Commission, please state your name and address. and sign-in.

5. Approval of December 18, 2024 Minutes

B. REGULAR MEETING

1. **PUBLIC HEARING**
Resolution No. PC 2025-01R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Articles 1
 - Legislative
 - Staff Presentation: Shani Porter, Planning Director
2. **PUBLIC HEARING**
Resolution No. PC 2025-02R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Articles 2
 - Legislative
 - Staff Presentation: Shani Porter, Planning Director
3. **PUBLIC HEARING**
Resolution No. PC 2025-03R: Text Amendment to the Land Use Code requiring two points of vehicular access for a subdivision

- Legislative
- Staff Presentation: Shani Porter, Planning Director

C. COMMUNICATIONS

Commission approval may be sought for administrative actions in association with staff reports.

1. Town Attorney
2. Town Staff
3. Town Management

D. ADJOURN

Planning Commission MEETING

Wednesday, January 15, 2025, 6:00 PM (MDT)

Registration URL

https://us02web.zoom.us/webinar/register/WN_OCx-DpESRiaIW915_tEgg

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PLANNING COMMISSION REGULAR MEETING
Zoom Webinar and/or Town Council Chamber
3 S. Timber Ridge Parkway, Severance, CO 80550

REGULAR MEETING MINUTES

Wednesday, December 18, 2024, at 6:00 PM

Present:

Chair:

Vice-Chair:

Commissioners:

Julie Stout
Derek Grimes
Joe Pirrone
David Rau
Dan Spykstra
Kris Quandt
Kevin Udy

Absent:

Audience:

Staff:

Shani Porter, Planning Director
Sarah Jacobsen, Town Clerk

A. CALL TO ORDER

1. Roll Call

2. Pledge of Allegiance

3. Public Comment

The purpose of the Public Comment is for members of the public to speak to the Planning Commission on any subject not scheduled on the agenda. To accomplish scheduled agenda items, comments should be limited to three minute for those attending in person or an appropriate time as deemed by the Chair. The Planning Commission shall make no decisions or take action on comments, but may choose to schedule the matter for a decision later. Those addressing the Planning Commission, please state your name and address. and sign-in.

4. Approval of 9.18.24 Minutes

MOTION WAS MADE BY Commissioner Pirrone, seconded by Commissioner Spykstra to Approve the September 18, 2024 Minutes. All Commission Members present voting Yes.

MOTION PASSED

B. REGULAR MEETING

1. PUBLIC HEARING

Resolution No. PC 2024-04R: Text Amendment to the Land Use Code regarding regulations, including staff review of home-based business permits and standards and requirements for home-based business

- Legislative
- Staff Presentation: Shani Porter, Planning Director

The public hearing opened at 6:03 p.m. There was no public participation and the public hearing closed at 6:29 p.m. Commission Member Grimes was excused and left at 6:20 p.m.

MOTION WAS MADE BY Commissioner Pirrone, seconded by Commissioner Rau to Approve Resolution No. PC 2024-04R: Text Amendment to the Land Use Code regarding regulations, including staff review of home-based business permits and standards and requirements for home-based business. All Commission Members present voting Yes.

MOTION PASSED

2. PUBLIC HEARING

Resolution No. PC 2024-05R: Text Amendment to the Land Use Code regarding accessory dwellings, including regulations, application requirements and administrative approval of accessory dwellings by Town staff.

- Legislative
- Staff Presentation: Shani Porter, Planning Director

The public hearing opened at 6:30 p.m. There was no public participation and the public hearing closed at 6:51 p.m.

MOTION WAS MADE BY Commissioner Pirrone, seconded by Commissioner Rau to Approve Resolution No. PC 2024-05R: Text Amendment to the Land Use Code regarding accessory dwellings, including regulations, application requirements and administrative approval of accessory dwellings by Town staff. All Commission Members present voting Yes.

MOTION

C. COMMUNICATIONS

Commission approval may be sought for administrative actions in association with staff reports.

1. Town Staff

Planning Director Porter gave a 2025 overview of items coming to the Planning Commission and said the commission expects to hold a meeting each month.

2. Commission Members

D. ADJOURN

The meeting adjourned at 7:00 p.m.



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
PUBLIC HEARING Resolution No. PC 2025-01R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Articles 1	Shani Porter, Planning Director	Shani Porter, Planning Director
ACTION REQUESTED		
Planning Staff ask that the Planning Commission review, discuss, and take action on Resolution PC-2025-01R and forward a recommendation to the Town Council on amendments to the Land Use Code regarding amendments to Article 1 of Chapter 16 "Land Use Code". Actions that may be taken: 1. Approve PC-2025-01R and forward a recommendation of approval to Town Council. 2. Deny Resolution PC-2025-01R 3. Take No Action.		<u>Resolution</u>
BRIEF SUMMARY		
Various amendments have been made to Section 16 of the Town of Severance Land Use Code over the last two years. The codification of these changes identified that the reorganization of Section 16 would be necessary for a user-friendly and cohesive implementation of the Land Use Code.		
PUBLIC SUPPORT/CONCERN		
None at this time		
ANALYSIS AND RECOMMENDATION		
Town staff is asking for the Planning Commission to review, discuss, and approve PC-2025-01R for the proposed amendments to the Land Use Code.		
MATERIALS SUBMITTED		
The following materials were submitted and included in this packet: 1. PC-2025-01R PC Recommend Approval Art 1 LUC Text Amendments 2. Exhibit A Article 1 - General Provisions redlines (01.2025) 3. Exhibit A - Article 1 - General Provisions clean (01.2025) 4. PC Public Notice Land Use Code 1-15-25		

**TOWN OF SEVERANCE PLANNING COMMISSION
RESOLUTION NO. PC-2025-01R**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF
SEVERANCE, COLORADO, MAKING A RECOMMENDATION TO THE TOWN
COUNCIL TO APPROVE AMENDMENTS TO ARTICLE 1 OF CHAPTER 16, “LAND
USE CODE,” OF THE SEVERANCE MUNICIPAL CODE**

WHEREAS, in accordance with Section 16.19.120 of the Severance Municipal Code, Town staff may initiate amendments to the text of the regulations in Chapter 16, “Land Use Code,” of the Severance Municipal Code (“Code”); and

WHEREAS, Town staff has proposed amendments to Article 1 of the Land Use Code (the “Proposed Amendments”), in the form attached to this resolution as **Exhibit A** and incorporated herein by this reference; and

WHEREAS, in accordance with Section 16.19.120 and 16.19.10, the Planning Commission shall review text amendments to the Land Use Code at a public hearing; and

WHEREAS, on January 15, 2025, the Planning Commission held a duly noticed public hearing to consider the Proposed Amendments;¹ and

WHEREAS, after considering any public testimony at the public hearing and the presentation by Town staff, and after reviewing the Proposed Amendments according to the criteria in Section 16.19.120(b) of the Land Use Code, the Planning Commission desires to recommend the Town Council approve the Proposed Amendments as presented.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION
OF THE TOWN OF SEVERANCE, COLORADO, AS FOLLOWS:**

1. The Planning Commission recommends the Town Council approve the proposed amendments to Article 1 of Chapter 16, “Land Use Code,” of the Severance Municipal Code in substantially the same form attached to this resolution as **Exhibit A**.

RESOLVED AND APPROVED this ____ day of _____, 2025.

PLANNING COMMISSION OF THE
TOWN OF SEVERANCE, COLORADO

Julie Stout, Chair

¹ Notice of the Planning Commission’s public hearing on the Proposed Amendments was published on December 30, 2024, on the Town of Severance’s website, <https://www.townofseverance.org/256/Public-Notices>, in accordance with Section 16.19.40(b)(4) and Tables 19.10 and 19.40 in Article 19 of the Land Use Code.

ATTEST:

Sarah Jacobsen, Town Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, Town Attorney

Article 1 – General Provisions

Section 16.1.10. Overview.

- (a) *Title.* This Chapter 16 is known as the Severance Land Use Code. References to “this Code,” “the Development Code,” or “these regulations” shall be considered a reference to the Severance Land Use Code. This Code establishes the regulations and standards governing the use and development of land within the Town. Included are provisions for the annexation, subdivision, and zoning of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are Town standards for site and building design, landscaping, parking, and public infrastructure.
- (b) *Authority.* This Code is adopted pursuant to the purposes and authority contained in the Colorado Revised Statutes (CRS) and the Colorado Constitution, Article XX, and the Severance Charter, independent of and in addition to the CRS, Title 31, Article 23. This title also supersedes any state legislative enactments which are, by their terms, subject to being superseded by adopted home rule charters or ordinances. Whenever a section of the CRS cited in this 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. Additional statutory authority may exist for specific types of land use regulations.
- (c) *Jurisdiction.* This Code shall apply to all structures and land within the Town's corporate boundaries, as depicted on the official zoning map. The Town's planning jurisdiction includes all land within the corporate limits and, where applicable, the lands within the Growth Management Area (GMA) as defined in the adopted Comprehensive Plan. Maps showing these and other regulatory boundaries shall be available for public inspection with the Town. For purposes of zoning and subdivision, this Code only applies to lands within the Town's corporate boundaries. It shall be unlawful to conduct any development or use of land until all specified development review processes have been followed, all applicable standards have been fulfilled, and all required approvals, permits or other authorizations have been issued.
- (d) *Purposes.* This Code is adopted to promote the public health, safety, and general welfare for the Town and its' citizens and businesses. The regulations have the following purposes:
1. Create a vital, cohesive, well-designed community to enhance the Town's character and further the citizen's vision, goals, and objectives.
 2. Implement adopted plans, policies, and programs, including the current Comprehensive Plan.
 3. Promote the physical, social, and economic well-being of the Town and its' citizens and businesses.
 4. Invest public funds effectively and efficiently, and in a manner that creates lasting value for the community.

5. Promote innovative, quality community planning and design that creates distinct places and unique elements that enhance the character of the community.
6. Provide parks, trails, and civic spaces that help organize development around systems of connected open spaces.
7. Promote the proper arrangement and design of streets to shape efficient neighborhood development patterns to improve access and circulation patterns.
8. Coordinate with existing and planned streets to improve access and circulation patterns that support abutting land uses.
9. Divide the community into zoning districts that promote the character and development patterns of distinct places identified in the Comprehensive Plan.
10. Regulate the development and use of structures and land within each zoning district to create compatible development patterns.
11. Promote appropriate transitions to adjacent properties.
12. Provide a variety of housing opportunities for all citizens.
13. Facilitate the adequate and efficient provision of public and private infrastructure to support the Town's adopted vision and values.
14. Direct new development into areas with adequate public and private infrastructure and to areas that conserve environmentally sensitive lands and protect citizens from environmental hazards and dangers.
15. Facilitate clear and consistent development procedures for all citizens and businesses.

Section 16.1.20. Interpretation.

The provisions of this Code shall be interpreted and applied as the minimum requirements for the promotion of public health, safety, and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, or sections, the more restrictive or that imposing the higher standard shall govern.

- (a) *General Rules.* The following rules shall apply to the application and interpretation of these regulations, unless otherwise stated within this Code:
1. The singular includes the plural, and the plural includes the singular.
 2. The words "must," "shall," and "will" are mandatory; whereas the words "may," "can," "should" and "might" are permissive but recommended as a way to best meet the standard or achieve the intent of the standard.
 3. The word "lot" shall include the words "building site," "site," "plot," or "tract."
 4. A building or structure includes any part thereof.
 5. The present tense includes the future tense, and the future tense includes the present tense.
 6. Lists of examples prefaced by "including the following," "such as," or other similar clauses shall not be construed as exclusive or exhaustive and shall not preclude an interpretation of the list to include other similar and non-mentioned examples.

7. The conjunctive “and” in a list means that all apply; the conjunctives “or” and “and/or” mean the provisions may apply singly or in any combination; and the conjunctive “either ... or” means the provisions apply individually but not in combinations.
8. When calculations to determine a requirement result in a fraction that cannot be divided (*i.e., parking spaces, trees, dwelling units, etc.*) it shall be rounded up to the nearest whole number.
9. Any references to “Town Manager,” “Manager,” or any other official may also include any designee of the Town Manager.
10. For processes and procedure timeframes that specify a certain number of “days,” it shall be assumed to mean “calendar days,” unless otherwise specified.
11. Any reference to other official local, state, or federal government rules or regulations shall include the most current versions of those rules or regulations.
12. References to a person shall include the individual, a partnership, association, agency, corporation, or other legal entity and their associated representatives.

(b) *Interpretation of the Zoning Map.* Where uncertainty exists with respect to any boundary on the official zoning map, the following rules shall apply:

1. **Property Lines.** Zoning district boundaries shall be interpreted as following platted or official legal property lines unless these lines have been substantially altered.
2. **City Limits.** Zoning district boundaries shall be interpreted as following the official Town limits.
3. **Other Features.** Zoning district boundaries shall be interpreted as following the centerline of streets, rights-of-way, rivers, or other similar features.

(c) *Official Interpretations of this Code.* The Town Manager or their designee may make official interpretations in cases where there is uncertainty to the criteria of this Code. Such interpretations shall be made in writing to applicants and documented at the Town ~~with the Community Development Department~~. When making an official interpretation, the following criteria shall be used:

1. Rational professional and technical planning principles.
2. Town adopted goals and policies of the Comprehensive Plan and other adopted plans and policies.
3. The purposes, intent, or criteria applicable to this Code and the specific chapter-article or sections related to the interpretation.
4. Applicable and available resources, guidelines, or industry standards.
5. The context and physical characteristics of the surrounding neighborhood and/or environment.
6. If the interpretation could be applied in a similar circumstance or situation.

(d) *Non-regulatory Provisions.* Purpose statements, development, and design criteria, supporting tables and/or graphics, and analysis such as captions or notes to figures and tables provide

additional guidance or simplification to an interpretation of the Code criteria. In the event of a conflict, the specific written criteria shall control.

- (e) *Resources, Guides, and Industry Standards.* Reputable professional and technical planning resource guides and industry “best practice” standards may be used by the Town to supplement this Code, as determined by the Town Manager. These resource guides and/or standards should only be used to clarify the adopted criteria or the purposes of this Code. They shall not be used to conflict with any adopted criteria but may be used in text amendments by the Town.

Section 16.1.30. Relationship to existing regulations and adopted plans.

All existing ordinances, resolutions, or motions of the Town Council in conflict with this Code are, to the extent of such conflict, hereby superseded and repealed, provided that no such repeal shall repeal the clauses of such section, resolution, or motion, nor revive any section, resolution, or motion thereby. The adoption of this Code shall not adversely affect the Town's right to seek remedies for any violation of previous sections that occurred while those sections were in effect.

- (a) *Comprehensive Plan and Advisory Documents.* It is the intent of the Town that this Code implements the planning policies adopted in the Comprehensive Plan, its’ GMA, and all other adopted Advisory Documents. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan and/or adopted Advisory Documents, nor may any action taken in conformity with this Code be challenged on the basis of claimed inconsistency with the Comprehensive Plan and/or adopted Advisory Documents.
- (b) *Requirement for Comprehensive Plan amendment.* Where a development proposal ~~is not in conformance~~does not conform with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required ~~prior to~~before any zoning or subdivision approvals. ~~Conformance exists when a development proposal matches the designations of the land use sections within the Comprehensive Plan~~The process for a Comprehensive Plan amendment can be found in Article 2 of these regulations.
- ~~(c) *Criteria for evaluating amendment proposals.* Amendments to the Comprehensive Plan resulting from development proposals under this Code shall be evaluated according to the criteria and procedure outlined in the Comprehensive Plan.~~

Section 16.1.40. Severability.

- (a) If any court of competent jurisdiction invalidates any provision of this Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Code.

- (b) If any court of competent jurisdiction invalidates the application of any provision of this 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.
- (c) If any court of competent jurisdiction judges invalid 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.

Section 16.1.50. Administration.

- (a) *Administrative Authority on Certain Land Use Applications.* Notwithstanding any other provision of this Code and subject to any limitations established by state statute, the Town Manager or such official's designee may act administratively, without resort to the Town Council or the Planning Commission with respect to minor modifications as provided for in [Section 16.19.160 Article 2 of these regulations](#).
- (b) *Town Manager.* The Town Manager may delegate their authority to a department or staff position (designee) to administer and interpret certain or all aspects of this Code. Other department heads and staff may serve in an advisory role under this Code. In addition to the [direct](#) authority granted by the Charter and local ordinances, the Town Manager shall have specific review responsibilities and final administrative decisions referred to the Town Manager under the procedures and standards of these regulations. The Town Manager may bring forward amendments to the Comprehensive Plan, Zoning Map, and these regulations.

~~Planning Director. The Planning Director (Director)~~[The Town Manager or their designee](#) shall assume the role as the administrator, the principal interpretation and enforcement official of these regulations,~~as the Town Manager's designee. The Planning Director, and the Planning Director's designees, and~~ may consult with ~~any other~~ town staff or relevant outside agencies to coordinate any plans, policies, and programs that impact these regulations or adopted plans and policies. ~~Such responsibilities shall include: The Planning Director, and the Planning Director's designees, shall specifically:~~

1. Prepare and provide development application forms and administer the requirements and review of submittals.
2. Oversee the application, review, and administration processes and prepare presentations and reports for review bodies.
3. Issue official interpretations and approve the use of other resources, guides, and industry standards used in administering this Code,~~as designated by the Town Manager.~~
4. Make final interpretations and final administrative decisions ~~referred to the Planning Director~~ under the procedures and standards of these regulations.

- (c) *Planning Commission.* The Planning Commission is the appointed body responsible for long-range and comprehensive planning. The Planning Commission is established according to the Town Charter. In addition to all other general planning authority granted by the Charter, statutes, and local ordinances, the Planning Commission shall have the specific review responsibilities and final authority referred to the Planning Commission under the procedures and standards of these regulations, as appointed by the Town Council.
- (d) *Town Council.* The Town Council is the elected and governing body responsible for all legislative decisions that affect the implementation of adopted plans, regulations, and policies. In addition to other general authority granted by law, the Town Council shall have the final decision authority as outlined under the procedures and standards of these regulations.
- (e) *Board of Adjustments.* The Board of Adjustments (BOA) shall act in accordance with the same rules and procedures that govern the Planning Commission and Town Council. Pursuant to Section 31-23-307(1), CRS, and as amended, the Town Council hereby appoints itself to serve as the BOA. The BOA shall hear and decide major variance and appeal requests.
 - 1. The BOA shall have the following powers and duties, all of which shall be subject to and in compliance with the laws of the State, in harmony with the purpose and intent of this Code and the most appropriate development of the neighborhood.
 - a. To hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of the provisions of this Code, as identified in procedures Article of this Code.
 - b. To review and decide on major variance requests from the terms of this Code in accordance with the major variance review criteria and procedures of this Code.

Section 16.1.60. Enforcement

- (a) *Responsible enforcement entity.* The Town Manager or ~~such other person who may be designated by the Town Manager~~their designee shall be responsible for enforcing the provisions of this article.
- (b) *Violations and enforcement procedures.*
 - 1. Violations: It shall be unlawful to violate any provision of this Code.
 - 2. Specific activities violating this Code: It shall be a violation of this Code to undertake any of the following activities:
 - i. Activities inconsistent with Code: Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, demolishing, moving, or using any building, structure, or sign, or engaging in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this Code, including terms and conditions of all required approvals.

- ii. Land-disturbing activities inconsistent with the Code: Excavating, grading, cutting, clearing, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations.
 - iii. Nonconforming uses or structures inconsistent with Code: Creating, expanding, replacing, or changing a nonconforming use, structure, lot, or sign, except in compliance with this Code.
 - iv. Making lots or setbacks nonconforming: Reducing or diminishing the lot area, setbacks or open space below the minimum required by this Code.
 - v. Increasing intensity of use: Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code.
 - vi. Activities inconsistent with permit or approval: Engaging in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval or other form of authorization required to engage in such activity, whether issued under or required by this Code.
 - vii. Activities inconsistent with conditions of approval: Failing to comply with any terms, conditions or limitations placed by the Town upon any final development Plan, subdivision plat, permit, or other form of approval by the Town.
 - viii. Agreements to convey: Making any agreement to convey or conveyance of any lot or undivided parcel of land, contrary to the provisions of this Code or prior to approval of a final plat by the Town; it shall be a separate violation for each lot or parcel of land sold or agreed to be sold.
 - ix. Activities inconsistent with the order of Town: Failing to comply with any stop work order, abatement order or any other order issued by the Town pursuant to this Code.
3. Separate violations: Any person who violates or causes the violation of any of the provisions of this Code shall be guilty of a separate offense for every day or portion thereof during which a violation is committed, permitted, or continues.
4. Remedies and enforcement powers: The Town Manager shall have the following remedies and powers to enforce this Code:
- i. Civil remedies and enforcement powers.
 - A. Deny/withhold entitlements: The Town Manager may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether the current owner or applicant for the permit or other approval is responsible for the violation.

- B. Revoke entitlements. Any entitlement or other form of authorization required under this Code may be revoked when the Town Manager determines one or more of the following:
- I. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement.
 - II. The entitlement was procured by false representation.
 - III. The entitlement was issued in error.
 - IV. There is a violation of any provision of this Code.

Upon revoked entitlements: Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.

- B. Stop-work orders:
- I. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any State or local Building Codes, or in a manner that endangers life or property, the Town Manager has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
 - II. With or without revoking permits, the Town Manager may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of an entitlement or other form of authorization issued under this Code.
 - III. The stop-work order shall be in writing and posted at the site of the work and shall specify the provisions of this Code or other law allegedly in violation. After any such order has been posted, 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.
 - IV. Once conditions for resumption of the work have been met, the Town Manager shall rescind the stop-work order.
- C. Civil penalties: Violation of this Code may be punishable through imposition of a civil penalty as set forth in the Town's Municipal Code.

- D. Injunctive relief: The Town Manager may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this Code, or any requirement or condition imposed pursuant to this Code. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this 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 Code violation.
- E. Abatement: The Town may abate the violation pursuant to the procedures set forth in Chapter 7 of the Town's Municipal Code, with the following modifications:
 - I. Unless the notice is appealed, pursuant to ~~Section 16.19.140~~[Article 2 of these regulations](#), to the Board of Adjustment within ten (10) days of service of the notice, the Town Manager shall proceed to abate the violation.
 - ii. Criminal remedies and enforcement powers.
 - A. Misdemeanor: A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this Code exists, where notice of violation, including any stop-work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice stop-work, enforcement, or compliance order.
 - B. Penalty: Failure to comply with all the provisions of this Code shall constitute a misdemeanor and, upon conviction, is punishable [as set forth in Article 4 \(General Penalty\) of Chapter 1 of the Town's Municipal Code](#) ~~by a fine of five hundred dollars (\$500.00) or imprisonment for a period of not more than ninety (90) days, or both~~. Each day that such violation continues to exist shall be considered a separate offense.
- 5. Persons responsible: The owner, tenant or occupant of any building or land or part thereof, as well as any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Code, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
- 6. Remedies cumulative: The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law or equity and may be exercised in any order. Each twenty-four (24)-hour period or portion thereof is considered a separate violation under this Code.
- 7. Continuation of prior enforcement actions: Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.

8. **Liability of Town:** This Code shall not be construed to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection or failure to inspect or reinspect, by reason of issuing a building permit or by reason of pursuing or failing to pursue an action for injunctive relief.
9. **Violations:** Violations of this Code may be enforced in the municipal court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and restraining order, by revoking any permits or approvals issued and by assessing any amounts due or delinquent fines as taxes. Any one (1) or any combination of the foregoing penalties and remedies may be used to enforce this Code.
10. **Costs and attorney's fees for enforcement for abatement to be paid to the Town:** Costs and attorney's fees associated with said abatement shall be charged to the owner of the property on which said violation has occurred and any other person responsible for the violation, as defined in this Code.

Division 1 – Nonconforming Structures and Uses (Article 20, Chapter 16)

Section 16.1.110. General Provisions. (Sec. 16.20.10)

- (a) **Purpose.** The purpose of this Article is to regulate and limit the development and continued existence of zoned legal uses, structures, lots, signs, and use characteristics such as parking and landscaping, established prior to the adoption of this Code, or the adoption of future amendments to this Code, that no longer conform to the requirements of this Code. All such situations are collectively referred to in this Article as “nonconformities.” While nonconformities may continue, the provisions of this Article are designed to curtail substantial investment in nonconformities to bring about their eventual elimination in order to preserve the integrity of this Code and the character of the Town.
- (b) **Authority to Continue.**
 1. **Generally.** Any nonconformity that lawfully existed as of the adoption of this Code and that remains nonconforming, and any nonconformity that is created as a result of any subsequent rezoning or amendment to the text of this Code, may be continued or maintained as a nonconformity only in accordance with the terms of this Article.
 2. **Exception Due to Variances or Minor Modifications.** ~~Notwithstanding Subsection 16.18.10.B.1 above,~~ This Article shall not apply to any development standard or feature that is the subject of a variance or minor modification granted under this Code. Where a variance or minor modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this Code, that development standard or feature shall be deemed conforming.
- (c) **Determination of Nonconformity Status.** In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the Town.

- (d) *Nonconformities Created Through Government Action.* If a structure, use of land, use of structure, or characteristic of use does not comply with the requirements of this Code solely as a result of an acquisition of land or other action by a government agency for a public purpose, then such structure, use of land, use of structure, or characteristic of use on land not acquired by the government shall be deemed conforming. For purposes of this Section the word "land" means fee simple interest in real estate.
- (e) *Change of Ownership or Tenancy.* Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this Article.
- (f) *Damage or Destruction.*
1. If a nonconformity is damaged or destroyed by any means to an extent greater than fifty percent (50%) of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor), then such nonconformity shall not be re-established or restored to its original condition unless it is made to conform to the requirements of this Code.
 2. Where a nonconforming building is damaged less than fifty percent (50%) of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor), it may be repaired or restored, provided any such repair or restoration is started within six (6) months and is completed within eighteen (18) months from the date of partial destruction.
- (g) *Maintenance and Minor Repair.*
1. Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent or degree of the nonconformity. For purposes of this Section, "maintenance or minor repair" shall mean:
 - i. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
 - ii. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses; and
 - iii. Repairs that are required to remedy unsafe conditions that cause a threat to public safety.
- (h) *Improvements Triggering Upgrades in Nonconforming Characteristics.* If an application is filed for a building permit or for reconstruction, remodeling, expansion, or other improvements of a multi-family, commercial, industrial, or mixed-use structure, and (b) the value of the proposed improvements total more than twenty-five (25) percent of its replacement cost of the primary structure(s) on the property, the applicant shall be required to address the following

nonconformities prior to, or as part of the improvements authorized by, such land use permit or building permit, unless the town determines that such nonconformities have no significant adverse impact on surrounding properties:

1. Screening of mechanical equipment;
2. Screening walls or fences (for parking areas or storage areas);
3. Driveway surfacing;
4. Landscaping;
5. Parking; and
6. Lighting.

Section 16.1.120. Nonconforming uses of land. (*Sec. 16.20.20*)

- (a) *Limitations on Continuation of Nonconforming Uses of Land.* Nonconforming uses of land or structures may continue, subject to the general provisions of Section 16.18.10 and the following limitations:
1. No nonconforming use of land shall be expanded, enlarged, or increased. An expansion of a nonconforming use shall include, but is not limited to, any change that results in any of the following: (a) an increase in usable floor area or an increase in percentage of the use of the parcel or lot, of a non-residential use; (b) the addition of a dwelling unit to a residential use. Any nonconforming use on a lot or portion thereof may be altered to decrease its nonconformity.
 2. No nonconforming use of land 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 the regulations that make the use nonconforming.
 3. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the applicable regulations, but no such use shall be extended to occupy any land outside such buildings.
 4. No additional structure not conforming to the requirements of this Code shall be erected in connection with the nonconforming use of land or structure.
- (b) *Change of Use.* A nonconforming use permitted under this Code shall not be changed or replaced with a different nonconforming use.
- (c) *Abandonment or Cessation of Use.* If a nonconforming use ceases for any reason, except when government action impedes access to the premises, on a lot or any portion of a lot for a period of more than six (6) consecutive months, the nonconforming use shall be considered abandoned. Once abandoned, the prior legal nonconforming status of the use shall be considered terminated, and re-establishment of the use shall be prohibited. Any subsequent use of the property shall comply with all applicable provisions of this Code.

Section 16.1.130. Nonconforming structures. *(Sec. 16.20.30)*

- (a) *Continuation of Nonconforming Structures Generally.* Nonconforming structures may continue, subject to the general provisions of Section 16.18.10 and the following limitations:
1. No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, including but not limited to any new construction in violation of required setbacks or building height in the applicable zone district; but any structure or portion thereof may be altered to decrease its nonconformity. This Subsection shall not be construed to allow the expansion of a nonconforming use of structure.
 2. Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
 3. Structural changes to a nonconforming building that have the effect of increasing the life of the nonconforming building shall not be permitted, unless the building official determines that such change is necessary to rectify a hazardous condition or safety concern.

Section 16.1.140. Nonconforming lots of record. *(Sec. 16.20.40)*

- (a) Unless otherwise provided in this Code, single-family residences and customary accessory buildings may be erected on any legally created single lot of record existing at the time of adoption of this Code. Such a lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, width or both area and width; provided however, that the minimum setback requirements of the district shall be met unless a variance has been granted as provided herein.
- (b) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this Code, and part or all of said lots do not meet the requirements of the zone district in which they are located as to minimum area or width, or both minimum area and width, for the purpose of this Article, the lands shall be considered to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with the lot area and width requirements established in this Code.

Section 16.1.150. Nonconforming signs. *(Sec. 16.20.50)*

- (a) *Termination of Legal, Nonconforming signs.*
1. The purpose of amortization is not only to provide a reasonable grace period during which the owner is permitted to continue a legal, nonconforming sign, and to recover its economic investment, but also to assure that the district in which the nonconforming

sign exists will eventually benefit from a substantial uniformity of permanent and conforming signs.

2. A nonconforming sign shall be removed and brought into compliance with this Code upon verification that any of the following conditions have been met:
 - i. The use to which such non-conforming sign refers has been abandoned for a continuous period of 180 days;
 - ii. Such sign is damaged or destroyed, and the cost to repair, restore or replace the sign exceeds fifty percent (50%) of the cost of a new sign; or
 - iii. The regulation or amendment to the Code that made the sign nonconforming has been in effect for ten years or more.

(b) *Extension of Time to Comply.* The time for a sign to be brought into compliance with the requirements of this Code may be extended at the request of the sign owner or lessee. In evaluating the extension of time for a nonconforming sign, the town shall consider the following factors to determine whether the owner of the sign has had a reasonable amount of time to recoup the initial investment:

1. The value of the sign at the time of construction and the length of time the sign has been in place;
2. The life expectancy of the physical structure and its salvage value, if any;
3. The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes;
4. The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance;
5. The extent to which the sign is not in compliance with this article;
6. The degree to which the town determines that the sign is consistent with this Code and its purposes; and
7. Whether the sign has historical or landmark significance and should, therefore, be exempt from amortization.

(c) *Maintenance, Alteration, Reconstruction or Replacement of Nonconforming Signs.* All legal, nonconforming signs shall be maintained in good condition, and shall not be:

1. Changed to another nonconforming sign;
2. Structurally altered;
3. Altered to increase the degree of nonconformity of the sign;
4. Expanded;
5. Re-established after discontinuance for 90 consecutive days of the use to which the sign pertained;
6. Continued after a change of the use or activity to which the sign pertains; or
7. Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent (50%) of the cost of replacement.

Division 2 – Vested Property Rights (Article 8, Chapter 16)**Section 16.1.210. Purpose. (Sec. 16.8.10)**

This article specifies procedures necessary to implement Article 68 of Title 24, CRS, which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site-specific development plan. No vested rights shall be created within the Town except through a site-specific development plan. For purposes of this Article of Code, a site-specific development plan shall be limited to the following: preliminary subdivision, final subdivision, site plan, and/or a development agreement that creates a vested property right and is adopted as a legislative act of the Town. Zoning and annexation shall not result in the creation of vested property rights, other than as accompanied by the approval of a site-specific development plan. For all other development application types of this Code, applicants should reference the Lapse of Approval criteria and application specific Effect of Decision criteria of this Code.

Section 16.1.220. General provisions. (Sec. 16.8.20)

- (a) *Request for site-specific development plan approval.* Landowners wishing the creation of vested property rights pursuant to Article 68 of Title 24, CRS shall request such approval in writing at least thirty (30) days prior to the date that the approval is to be considered. Failure of the landowner to request such an approval renders the Plan not a “site-specific development Plan” and no vested property rights shall be deemed to have been created.
- (b) *Notice and hearing.* No site-specific development plan shall be approved until the Town publishes notice of such a hearing in accordance with the applicable development application notification requirements of [Article 2](#) of this Code. Such notice may, at the Town’s option, be combined with any other required notice. At such a hearing, all interested persons shall have an opportunity to be heard.
- (c) *Approval, conditional approval, effective date, amendments, referendum, and review.*
 - 1. A site-specific development plan shall be deemed approved upon the effective date of the Town action granting final approval of the Plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.
 - 2. The Town Council may approve a site-specific development plan with terms and conditions as may be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by all such terms and conditions shall result in a forfeiture of the vested property right.
 - 3. In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site-specific development plan unless

the Town Council specifically finds to the contrary and incorporates such findings in its approval of the amendment.

4. The approval of vested property rights shall be subject to all rights of referendum and judicial review.
5. The approval of vested property rights shall be subject to all rights of referendum and judicial review, except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site-specific development plan and creation of vested property rights.

(d) Notice of approval.

1. Each plat or site plan constituting a site-specific development plan by this Code shall contain the following notice:

“This Plan constitutes a site-specific development plan as defined in Article 68 of Title 24, CRS and as adopted as part of the Land Use Code by the Town of Severance, Colorado.”

Failure to contain this statement shall invalidate the creation of the vested property right.

- (e) Duration of vested property right.* A property right that has been vested as provided herein shall, upon compliance with the terms and conditions of the approval thereof, remain vested for a period of two (2) years, except that the Town Council may, in its sole discretion, grant vested property rights for a longer period within a final plat, site plan, and/or development agreement when warranted in light of all relevant circumstances, including but not limited to the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Town Council in an ordinance approving such amendments. For purposes of this Code, completion of a development shall include installation of all engineered improvements (i.e., water, wastewater, streets, curb, gutter, sidewalks, fire hydrants and storm drainage improvements) in accordance with the Town rules and regulations.

- (f) Extensions.* A vested property right may be extended for periods of one (1) year by the Town Council. The property owner must request an extension in writing not later than thirty (30) days prior to the date of expiration of the vested right. Prior to the expiration of the original vesting timeframe or the extension timeframe, an applicant may formally request an additional extension if substantial progress has been made on installation of public improvements. In considering whether to grant an extension, the Town Council shall apply the following criteria:

1. That there is no conflict with this Code or that any conflict with the Code can be corrected by an amendment to the Plan, which shall be presented with the request for extension.
2. That the applicant has demonstrated that the Plan continues to be compatible with adjacent properties and the surrounding areas or that compatibility may be established

by an amendment to the Plan, which shall be presented with the request for an extension.

3. That the applicant has demonstrated that the Plan is consistent with the Town's Comprehensive Plan.

- (g) *Other provisions unaffected.* Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions or requirements of this Code or the Town pertaining to the development or use of property, adopted or applicable before or after the approval of the site-specific development Plan.
- (h) *Payment of costs.* In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site-specific development plan shall pay all costs incurred by the Town related to such application, including but not limited to publication of notices, public hearing costs, county recording fees and third-party review costs.
- (i) *Limitations.* This article is enacted pursuant to the provisions of Article 68 of Title 24, CRS. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof no longer effective.
- (j) *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 to 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 Plan submitted for approval as a site-specific development plan notice of any natural or human-made hazards on or in the immediate vicinity of the subject property that are known to the applicant or could 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.

Division 3 – Definitions (Chapter 16, Article 7)

Section 16.1.310. Definitions. (Sec. 16.7.10)

As used in this Code, the following words shall have the following definitions ascribed to them, unless otherwise provided for in this Code.

- *Accessory building* means a subordinate building or structure, the use of which is customarily incidental to that of the main building or to the main use of the land, which is located on the same lot (or on a contiguous lot in the same ownership) with the main building or use. Accessory buildings are only permitted when they are incidental or accessory to an existing and permitted principal or ~~conditional-special~~ use.
- *Accessory dwelling or ADU* means an internal, attached, or detached dwelling that provides complete independent living facilities for one or more individuals; is located on the same lot as the proposed or existing primary residence; and includes facilities for living, sleeping, eating, cooking, and sanitation. An ADU may also be known as an “accessory apartment”, “secondary suite”, or “mother-in-law apartment.”
- ~~*Accessory dwelling* means a living area (dwelling) located in an accessory building, such as a carriage house, detached garage, or barn, located on the same lot as a single-family dwelling. An ADU shall have a separate means of heating that complies with the IRC. Also known as an “accessory apartment”, “secondary suite”, or “mother-in-law apartment”, it is an additional dwelling that has separate kitchen, sleeping, and bathroom facilities detached from the principal dwelling on a single-family lot. An accessory dwelling shall be limited to thirty percent (30%) of the main structure or eight hundred (800) square feet in floor area, whichever is less. For purposes of calculating residential density, each accessory dwelling shall count as one-half (½) dwelling unit. There shall not be more than one (1) accessory dwelling located on a lot in addition to the single-family dwelling. Accessory dwellings with separate kitchens cannot be located within the principal dwelling on a single-family lot.~~
- *Accessory use* means a subordinate use, incidental and related to the main structure, building or main use of land, which is located on the same lot (or on a contiguous lot in the same ownership) as that of the main building or to the main use of the land.
- *Active open space* means an open space area developed primarily for community access and recreation including sports, exercise, or active play. These areas may include hardscape or landscape areas that have been formally designed and constructed.
- *Adjacent* means meeting or touching at some point or separated from a lot or parcel by one (1) of the following: a street, alley, other right-of-way, lake, stream, or open space.
- *Adjacent on-street parking* means on-street parking that is located directly next to a proposed development. At least fifty percent (50%) of the length of the proposed space must be within the dimensions of the proposed development to be eligible as an adjacent on-street space.

- *Adjacent property owner* means an owner of record of any estate, right or interest in real property adjacent to or within a three hundred (300)-foot radius of the subject property.
- *Adult-oriented use* means a 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 material that is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified sexually related anatomical areas as the primary attraction to the premises. For purposes of this Code, the definition of *adult-oriented use* shall not include a use of property where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State engages in a medically recognized practice, including but not limited to sexual therapy.
- *Affordable housing unit for rent* means a dwelling unit that is available for rent on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Town residents, as adjusted for family size as determined by the U.S. Department of Housing and Urban Development, 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 households for a period of at least twenty (20) years or permanently.
- *Affordable housing unit for sale* means a dwelling unit that is available for purchase on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Town 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, reserved, or marketed for occupancy and affordable to such low-income households for a period of at least twenty (20) years or permanently.
- *Agricultural land* means real property that is being used for one (1) or more agricultural activities.
- *Agriculture Type I* means home-based agricultural activity focusing on raising livestock, food, etc. for noncommercial purposes.
- *Agriculture Type II* means farming, including plowing, tillage, cropping, use 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); sod production; orchards, tree farms and nurseries and the cultivation of products for commercial purposes.
- *Alley* means a minor or secondary way that is used primarily for vehicular service access to the back or side of a property or properties otherwise abutting a street.
- *Alley loaded unit* means an attached or detached single-family dwelling unit which has a garage that is accessed from an alley and not from a street.
- *Alteration* means any change, addition or modification in construction, occupancy, or use.
- *Amusement center*. See *Recreation facility, indoor*.

- *Amusement park* means an outdoor enterprise with the main purpose of providing the general public with recreational entertainment activities and where tickets are sold, or fees are collected for such activities. Examples of such recreational entertainment activities include but are not limited to miniature golf courses, outdoor arcades, Ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.
- *Animal Boarding* 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.
- *Applicant* means the owner of land, the owner's authorized representative or the optionee of the land who is submitting an application for consideration and approval by the Town for annexation, subdivision, zoning, development, or other land use requiring approval.
- *Appurtenances* means the visible, functional, or ornamental objects subordinate to the use of property.
- *Aquifer recharge area* means an area where water is absorbed into a natural aquifer, adding to the zone of saturation.
- *Automotive repair, 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 activities are conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Automotive repair, 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 activities are conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *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.
- *Awning sign* means a wall sign that is painted, stitched, sewn, or stained onto the exterior of an awning.
- *Bar or tavern* means an establishment primarily 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.
- *Beacon, revolving* means a rotating source of light.
- *Bed and breakfast* means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee, and which is occupied by the operator of such establishment.

- *Bike trail* means a path or trail designed for use by bicyclists, which may be used by pedestrians.
- *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, waterway, or any barrier to the continuity of development, or land that is designated as a block on any recorded subdivision tract.
- *Boarding and rooming house* means a building or portion thereof that is used to accommodate, for compensation, two (2) 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 items of value.
- *Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics:
 1. Is permanently affixed to the land.
 2. Has one (1) or more levels and a roof.
- *Building Code* means the set of standards that must be followed in the construction and remodeling of buildings and structures, as adopted by the Town in [Chapter 18](#) of ~~this~~ [the Town's Municipal Code](#).
- *Building Façade Lighting* means the lighting of a building facade for architectural, aesthetic, or decorative purposes.
- *Building frontage* means the horizontal, linear dimension of that side of a building that abuts a street, parking area, mall, or other circulation area open to the public and has either a main window display or a public entrance to the building.
- *Building height* means the vertical distance from the average curb elevation to the highest roof surface.
- *Building permit* means a document signed by the building administrator as a condition precedent to the commencement of the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building, which acknowledges that such structure complies with the provisions of this Code.
- *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.
- *Canopy sign* means a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, with columns extending from the ground or with a combination of a building and columns.
- *Cash-in-lieu* (also known as *fee-in-lieu*) means an amount of money to be paid by the applicant to the Town at the determination of the Town Council, instead of dedication or other requirements.

- *Cemetery* means land used or intended to be used for the burial of the dead.
- *Child care center* means a facility, by whatever name known, that is operated for the whole or part of a day for the care of five (5) or more children, who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as child care centers, school-age child care centers, before- and after-school programs, kindergartens, preschools, outdoor nature-based preschool programs, day camps, and summer camps, and includes those facilities for children under six (6) years of age with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term does not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades, for the care of five (5) or more children under the age of sixteen (16) who are not related to the owner, operator or manager, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes but is not limited to facilities commonly known as day care centers, day nurseries, nursery schools, pre-schools, play groups, day camps, summer camps and those facilities that give twenty-four (24) hour per day care for children, but specifically excludes any hospital or family care home.
- *Child care centers* are also those facilities for children under the age of six (6) years with stated educational purposes that 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.
- *Cluster homes* means single-family homes formally Planned, constructed, and managed by an association for maintenance-free living in a park-like atmosphere with private, accessible natural areas and privacy being the dominant features. Land ownership is generally, but not exclusively, held in common ownership.
- *Common equestrian stabling and grazing* means shared pastures and/or common barns for horses that are owned and maintained by a homeowners' association.
- *Community facility* means a publicly owned facility or office building that is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole.
- *Company vehicle* means a vehicle that is used solely for the purposes of the business. It is assumed that the vehicle will be parked at the proposed development during off-hours of the business. Company vehicles do not include semi-trucks or other large vehicles used for transportation of freight.
- *Compatibility* means the characteristics of different uses or activities or design that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include but are not limited to, height, scale, mass, and bulk of structures. Other characteristics

Commented [MLM1]: A "child care center" is separate and distinct from a "family child care home." Child care centers are usually commercially operated or operated by school districts must be permitted in the applicable zoning district. See comment below regarding family child care homes and limits on local government authority to regulate family child care homes with respect to zoning.

Commented [MLM2]: "five or more children" is in the C.R.S. definition of child care center. See C.R.S. § 26.5-5-303(3)(a).

include but are not limited to pedestrian or vehicular traffic, circulation, access, and parking impacts. Additional factors that affect compatibility are landscaping, lighting, noise, odor, and architecture. *Compatibility* does not necessarily mean *the same as*; rather, *compatibility* refers to the ability of a development proposal to complement the character of existing development.

- *Comprehensive Plan* means the Plan that was most recently adopted by the Planning Commission and Town Council in accordance with Section 31-23-206, CRS to guide the future growth, protection, and development of the Town, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety, and general welfare of its population.
- ~~*Compressed gravel* means gravel that has ninety-five (95) percent compaction at standard proctor densities at two (2) percent optimum moisture content.~~
- *Condominium* or *condo* means a single dwelling unit in a multiple-unit structure, which is separately owned, and which may be combined with an undivided interest in the common areas and facilities of the property.
- *Conservation easement* means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use and protecting natural resources or maintaining air or water quality.
- *Convenience center* means a shopping and service center located in a complex that 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.
- *Convenience retail store* means a retail store containing less than five thousand (5,000) square feet of gross floor area that sells everyday goods and services, which, without limitation, may include ready-to-eat food products, groceries, over-the-counter drugs, and sundries.
- *Covenants* means a private written agreement between property owners outlining regulations specific to a development.
- *Critical Plant communities* means vegetation essential to the conservation of threatened or endangered species that may require special management considerations or protection.
- *Crosswalk* means a pathway marked off for pedestrians to cross a street.
- *Cul-de-sac* means a local street having only one (1) outlet and the other end for the reversal of traffic movement.
- *Cultural assets* means buildings, locations and other features considered by the Town as historically, culturally, or socially significant to the community.
- *Deck* means a roofless outdoor space built as an aboveground platform projecting from the wall of a building and connected by structural supports at grade or by the building structure.

- *Dedication* means any grant by a property owner of a right to use land for the public, involving a transfer of property rights and acceptance of the dedicated property by the appropriate public agency.
- *Density* means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within a 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 difference between the total acreage, less all publicly dedicated land.
- *Detention basin* means a human-made or natural water collection facility designed to collect surface and subsurface water in order to control its flow and release the same gradually at a rate not greater than that prior to the development of property into natural or human-made outlets.
- *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.
- *Development* means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land or the dividing of land into two (2) or more parcels. When appropriate in context, *development* shall also mean the act of developing or the result of development.
 - Development shall include:
 1. Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land.
 2. 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.
 3. Any change in use of land or a building.
 4. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir, or wetland.
 5. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling, or excavation on a parcel of land.
 6. The demolition of a building.
 7. The clearing of land as an adjunct of construction.
 8. The deposit of refuse, solid or liquid waste or fill on a parcel of land.
 9. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property.

10. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.
- Development shall not include:
 1. 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.
 2. 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 that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guideway mass transit depots or terminals or any similar traffic-generating activity.
 3. The maintenance, renewal, improvement, or alteration of any building if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
 4. The use of any land for an agricultural activity.
 5. A change in the ownership or form of ownership of any parcel or building.
 6. The creation or termination of rights of access, easements, covenants concerning development of land or other rights in land.
 - *Development Plan* means the written and graphical documents that detail the provisions for development. A site-specific development is a type of development Plan. The provisions of a development Plan may include easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrian areas and parking facilities and common open space and other public facilities.
 - *Duplex unit* means a two-family dwelling unit with each unit typically located on its' own lot. Each unit has direct access to the outside, and the units are attached to each other by party walls or a floor/ceiling with one (1) unit above the other.
 - *Dwelling* means a building or portion thereof used for residential occupancy, including but not limited to single-family dwellings, two-family dwellings, and multi-family dwellings.
 - *Dwelling, multi-family* means a building or portion thereof designed to contain three (3) or more dwelling units. Each unit typically does not have direct access to the outside, and each unit is attached to another unit at one (1) or more party walls and at either the floor or the ceiling. Multi-family does not include single-family attached units such as townhomes and/or duplexes, nor does it include hotels, motels, and similar group accommodations.

- *Dwelling, single-family* means a building designed to exclusively contain one (1) dwelling unit for occupancy by one (1) family but not including mobile homes, otherwise provided for herein.
- *Dwelling, single-family attached* means a building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwellings as townhomes, duplexes, and zero-lot-line homes.
- *Dwelling, single-family detached* means a single-family dwelling that is not attached to any other dwelling or building by any means, excluding mobile homes, otherwise provided for herein.
- *Dwelling, two-family* means a building designed for and occupied by two (2) families living independently of each other.
- *Dwelling unit* means one (1) or more rooms, 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, located in a single-family, two-family, or multi-family dwelling or mixed-use building.
- *Easement* means a right to land commonly established by means of a real estate deed or agreement or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.
- *Eave* means the overhanging lower edge of a roof.
- *Elevation* means the external vertical Plane of a building. Building elevations are considered to be different if they have different roof lines, building materials, details, color, and overall stylistic expression.
- *Entertainment facility and theater* means a building or part of a building devoted to showing motion pictures or dramatic, musical, or live performances.
- *Environmentally sensitive areas* means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical Plant communities and ridgelines.
- *Family* means one (1) or more persons living together on the premises of a dwelling unit. The total number of persons living together shall not exceed the maximum number permitted by the current building and fire codes adopted by the Town of Severance, by any applicable state or federal law or regulation, or by any affordable housing guidelines applicable to the dwelling unit, any individual or two (2) or more persons related by blood, adoption or marriage, or an unrelated group of not more than three (3) persons living together in a dwelling unit and includes family foster care of up to four (4) children that is licensed according to state statutes.
- *Family child care home* means a facility for child care a facility for child care operated with or without compensation or educational purposes 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

years who are not related to the head of such home, in a place of residence of a family or person for the purpose of providing less than twenty-four (24) hour care for children under the age of eighteen (18) who are not related to the head of such home. Family child care 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 of the State Department of Social Services pursuant to Section 26-6-106(2)(p), Section 26.5-5-314-2(n), C.R.S., and as amended.

- *Farm animals* means animals commonly raised or kept in an agricultural rather than urban environment, including but not limited to ~~chickens~~, pigs, sheep, goats, horses, cattle, llamas, alpacas, emus, ostriches, donkeys, and mules. Also referred to as *livestock*.
- *Feedlot* means a tract of land or structure, pen, or corral, wherein farm animals, including but not limited to cattle, horses, sheep, goats, emus, ostriches, or swine, are maintained in close quarters for the purpose of fattening such farm animals for final shipment to market.
- *Floodplain or flood hazard area* means any area ~~that has been~~ designated by the Federal Emergency Management Administration (FEMA) as a Special Flood Hazard Area with a one percent (1%) or more annual chance of flooding, or any area designated by the Colorado Water Conservation Board ~~or FEMA~~ as susceptible to flooding inundation by water from any source.
- *Flood-prone* means areas subject to flooding that have not been designated by ~~the Town Council~~, the Colorado Water Conservancy Board or FEMA.
- *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 one (1) foot.
- *Floor area*, also called *gross floor area*, means the total square footage of the building measured along the outside walls of the building and including each floor level but not including exterior open balconies, garages or other enclosed automobile parking areas and basement storage areas and not including one-half (½) of all storage and display areas for durable goods.
- *Floor Area Ratio (FAR)* means the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.
- *Footcandles* means one (1) lumen per square foot of site area. Primary measurement of illumination in the Town of Severance.
- *Footprint*, also called *ground level footprint*, means the outline of the total area that is covered by a building's perimeter at ground level.
- *Freestanding sign* means a sign that is supported by one (1) or more columns, uprights, poles, or braces extended from the ground or that is erected on the ground. These include monument signs and pole signs but do not include signs attached to structures.

Commented [MLM3]: Per state law, "Family child care homes" must be treated as a residential use under local zoning, land use development, fire and life safety, sanitation, and building codes. See C.R.S. § 26.5-50-310(1)(b). Further, local governments "shall not impose any additional regulations governing family child care homes that do not also apply to other residential properties," except that the local government may restrict or prohibit, "on a case-by-case basis, the operation in immediately adjacent residences of two or more large family child care homes, ... or to manage the flow of traffic and parking related to adjacent large family child care homes." Id.

This means that the Town can require special use review of "large family child care homes" to determine when adjacent to another large family child care home.

A family child care home can have up to 6 children for all-day care, plus 2 additional children for before or after school care.

A large family child care home can have up to 12 children, including any children of the provider under 10 yo.

The state determines the appropriate type of license for family child care homes, and the state is required to notify the Town any time it issues a family child care home license of any type (regular, large, infant-toddler, etc.) for a home in the Town.

- *Fully Shielded Fixture* means a fixture with a solid barrier (cap) at the top of the fixture in which the lamp (bulb) is located. The fixture is angled so the lamp is not visible below the barrier (i.e., no light visible below the horizontal angle).
- *Functional open space* means open space that is large enough to serve a practical purpose, such as recreation, wildlife habitat or preservation of areas of agricultural, archaeological, 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.
- *Gable* means the triangular portion of a wall enclosing the end of a pitched roof from the cornice or eaves to the ridge.
- *Garage, split* means a building with at least two (2) separate garages that are oriented in different directions.
- *Garage, tandem* means a garage that allows for the parking of one (1) car in front of another.
- *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, minor repairs, and carburetor cleaning, may be conducted. *Gasoline station* shall not include premises where heavy automobile maintenance activities, such as engine overhaul, automobile painting and body fender work, are conducted.
- *Grade* means:
 1. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and a property line or, when the property line is more than five (5) feet from the building, the lowest point of such finished surface elevation within the area between a building and a line five (5) feet from the building.
 2. The degree of rise or descent of a sloping surface.
- *Grade, natural* means the elevation of the ground surface in its natural state before human-made alterations.
- *Grocery store* means a retail establishment primarily selling food as well as other convenience and household goods, which occupies a space of at least five thousand (5,000) square feet but not more than twenty-five thousand (25,000) square feet. A large grocery store, greater than twenty-five thousand (25,000) square feet, is synonymous with *supermarket*.
- *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.
- *Group home* means a residence operated as a single dwelling, which is licensed by or operated by a government agency for the purpose of providing special care or rehabilitation due to age, physical condition or illness, mental condition or illness, social, behavioral or disciplinary

problems, or homelessness provided that authorized supervisory personnel are present on the premises.

- *Guest house* means an accessory building that is physically detached from a single-family dwelling unit, is serviced through the same utility meters or connections as the principal use, is intended for temporary occupancy by visitors to the family residing in the single-family dwelling and has no cooking facilities.
- *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 and protection.
- ~~*Home-Based Business Type I* means any home occupation that does not create additional traffic, parking, noise, or smells that can potentially have negative impacts on the adjacent neighborhoods.~~
- ~~*Home-Based Business Type II* means any home occupation that creates additional traffic, parking, noise, or smells that can potentially have negative impacts on the adjacent neighborhoods.~~
- ~~*Home-based business occupation* means any occupation, profession, activity, or use conducted principally within a residential dwelling unit and carried on by the inhabitants, which that use is clearly incidental and secondary to the use of the a residential dwelling unit, for dwelling purposes and which does not change the exterior of the property or affect the residential character of the area, and which meets the provisions of this~~ thereof.
- *Illumination, direct* means lighting by means of an unshielded light source, including but not limited to neon tubing, which is effectively visible as a part of a sign where light travels directly from the source to the viewer's eye.
- *Illumination, indirect* means lighting by means of a light source directed at a reflecting surface in a way that illuminates a sign from the front or a light source that is primarily designed to illuminate an entire building facade upon which a sign is displayed. *Indirect illumination* does not include lighting that is primarily used for purposes other than sign illumination; e.g., parking lot lights or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.
- *Illumination, internal* means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs or that is within letters or designs that are themselves made of a translucent material.
- *Indoor recreation facility* means a place where recreation activities occur completely within an enclosed structure, including but not limited to bowling alleys, skating rinks, pool halls and video and pinball parlors.
- *Industrial, heavy* means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, 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* also means 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 and container storage).

- *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* means 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, petrochemical industries, rubber refining, primary metal, or related industries.
- *Infrastructure* means improvements such as streets, water systems, wastewater and solid waste disposal systems, storm drainage systems, electric, gas or other utilities, bridges, roadways, trail systems and sidewalks, bus stops and so forth, which serve the common needs of the population and provide the basic framework for urban daily life.
- *Junkyard* means an industrial use contained within a building, structure or parcel of land or portion thereof that is used for collecting, storing, or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging, or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof.
- *Kennel* means a facility that is 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.
- *Landscaping* means any combination of living Plants, such as trees, shrubs, Plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains, or the like. *Landscaping* shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection, and replacement of existing trees.
- *Large retail establishment* means a retail establishment or any combination of retail establishments in a single building that occupies 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.
- *Laundry and dry-cleaning retail outlet* means a laundry or dry-cleaning business that consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items that are brought directly to the premises by the retail customer.
- *Light Trespass* means light that illuminates surfaces or that is visible beyond the property line of any lot.

- *Livestock.* See *Farm animals*.
- *Lodging establishment* means a building or guest room(s) within a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are three (3) or more guest rooms.
- *Lot* means a designated parcel, tract or area of land established by plat or subdivision or otherwise permitted by law, occupied, or intended to be occupied by such uses and structures permitted under these rules and regulations together with required open spaces, and which has direct access onto a public or private street.
- *Lot area* means the total horizontal area within the boundary lines of a lot.
- *Lot depth* means the average distance between the front lot line and the rear lot line.
- *Lot, double frontage* means a lot that fronts on one (1) public street and backs onto another public street.
- *Lot, flag* means a lot shaped and designed so 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.
- *Lot line, front* means the property line dividing a lot from a street. On a corner lot, only one (1) line (the line with the shortest street frontage) shall be considered as a front line, and the line with the longer street frontage shall be considered a side lot line.
- *Lot line, rear* means the property line opposite the front lot line.
- *Lot line, side* means any property line other than the front lot line or rear lot line.
- *Lot, reverse corner* means a corner lot, the side lot line of which is substantially a continuation of the front lot line to the rear lot line.
- *Lot size* means the total horizontal area within the property lines of a lot; this is synonymous with *lot area*.
- *Lot width* means the distance parallel to the front lot line, measured at the front building setback line. *Lot width on a 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.
- *Lumen* means the unit of light measurement. Used in the Town of Severance for lighting that does not illuminate a surface (i.e., light that is projected upwards towards the sky).
- *Manufactured home* means a single-family dwelling that:
 1. Is partially or entirely manufactured in a factory.
 2. Is at least twenty-four (24) feet wide and thirty-six (36) feet long.
 3. Is permanently affixed to and installed on an engineered, permanent foundation.

4. Has a pitched or cosmetically equivalent roof and brick, wood, wood composite, vinyl, metal, or stucco exterior siding.
 5. Complies with Housing and Urban Development (HUD) standards or standards of the adopted building Code, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.
- *Manufacturing* means a business that makes products by hand or by machinery.
 - *Maximum service capacity* means the maximum number of patrons that may visit a restaurant or similar establishment at any given time, as set by the fire department or other public safety entities.
 - *Maximum Uniformity Ratio* means the ratio of maximum-to-minimum illumination levels. This is calculated by dividing the maximum light level by the minimum light level.
 - *Mixed use* means the development of a lot, tract or parcel of land or building with two (2) or more different uses, including but not limited to residential, office, retail or public uses, personal service or entertainment uses that is designed, Planned, and constructed as a unit.
 - *Mixed-use building* means a building designed, Planned, and constructed as a unit, used partially for residential use and partially for commercial uses, including but not limited to office, retail or public uses, personal service, or entertainment uses.
 - *Mixed-use dwelling unit* means the dwelling unit in a mixed-use building. For purposes of calculating residential density, each mixed-use dwelling unit shall count as one-half (½) dwelling unit.
 - *Mobile home* means a single-family dwelling unit partially or entirely manufactured in a factory, built on a permanent chassis, and designed to be transported on streets to the place where it is to be occupied as a dwelling unit. A mobile home shall conform to the following design and installation standards:
 1. Is not less than twelve (12) feet wide and thirty-six (36) feet long.
 2. Is partially or entirely manufactured in a factory.
 3. Is designed for longer-term residential use.
 4. Meets or exceeds, on an equivalent performance engineering basis, standards established by the Town's adopted building Code.
 5. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.
 - *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.
 - *Motor vehicle service and repair*. See *Automotive repair*.

- *Natural area* means an area of land that may include one (1) or more floodplains and floodways, natural drainage and waterways, 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, prairie dog colonies over twenty-five (25) acres in size, remnant native prairie habitat, plains cottonwood galleries and any wetland greater than one-quarter (¼) acre in size.
- *Neighborhood commercial center* means an area containing businesses that are intended to provide goods and services to the immediate neighborhood (within a walkable radius).
- *Nightclub* means a bar or tavern containing more than one hundred (100) square feet of dance floor area.
- *Nonconforming building* means a building, structure, or portion thereof that does not conform to the regulations of this Chapter but was lawfully constructed under the regulations in force prior to adoption of this Chapter.
- *Nonconforming use* means a use that does not conform to the use regulations of this Chapter.
- *Off-street parking area* means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or 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.
- *Oil and gas operation* means any structure, facility or activity that is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.
- *Open space* means any land or water area with its surface open to the sky that serves specific uses of providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form, and protecting areas of agricultural, archaeological, 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.
- *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 uses or storage uses except on construction sites.
- *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 later subdivision or be conveyed to an owners' association.

- *Owners' association* means the association set up to enforce the covenants and maintain all common areas and buildings for a development. In the case of a residential development, such association may also be known as a *homeowners' association*.
- *Parcel* means a tract, lot, or plot of land.
- *Park* means a tract of land designated and used by the general public or membership (if privately owned) for active and passive recreation and education.
- *Parking lot* means an off-street parking area or vehicular use area.
- *Passive open space* means an open space area development primarily for leisure, relaxation, or the preservation of nature. These areas may include landscaped garden beds, wildlife habitats, native planting areas, or similar spaces within the community.
- *Patio home* means an attached or detached single-family dwelling unit that typically maxes out at one (1) or one and one-half (1.5) stories. Units tend to be much smaller in their overall footprint, lot size, and typically include narrower setbacks which result in lower maintenance costs.
- *Pedestrian accessway* means a facility used for on-foot travel by patrons, including without limitation, sidewalks, crosswalks, pathways, whether or not located in the right-of-way.
- *Pedestrian scale*, also known as *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, considering the perceptions, and walking speed of a typical pedestrian.
- *Phase* means a portion of property that is being platted and engineered for development at the same time.
- *Plat* means a map of certain described land giving form, detail and substance to a development Plan or site Plan and prepared in accordance with the requirements of this Code and Section 38-51-106, CRS, as an instrument for recording of real estate interests with the County Clerk and Recorder.
- *Playground zone area* means a designated safety area surrounding each item of playground equipment that must be kept free and clear of other structures, decorations, or similar devices.
- *Porch* means a roofed or otherwise covered projection from a main wall of a dwelling entrance and open on three (3) sides, except for wire screening. A porch shall not be considered open if enclosed by glazing.
- *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 currently being used to produce livestock and timber. It does not include land already in or committed to urban development or water storage.

- *Private property rights* means the rights of a property owner within the Town to use his or her property within the legal parameters set forth in this Code and subject to applicable local, state, and federal regulations.
- *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.
- *Proof of ownership* means ownership as specified in a current title insurance commitment, policy or certification of title issued by a title insurance company licensed to do business in the State.
- *Property* means all real property subject to development regulation by the Town.
- *Public areas* means streets, parks, open spaces and other property designated or described for public use on a map or plat of the Town for which fee title is vested in the Town, another public body or a special district as defined in Section 32-1-103, CRS.
- *Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place where the general public may attend to hear issues and express their opinions.
- *Public improvement* means any irrigation or drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, landscaped open space, off-street parking area, lot improvement or other facility that is intended for primary benefit to the public.
- *Public open space* means open space area conveyed or otherwise dedicated to the Town, county, state or other public body for recreational or conservation uses. Public open spaces are to be unencumbered by oil and gas operations, their appurtenances, or other hazards to the public.
- *Recreation facility, indoor* means a recreational land use that is conducted entirely within a building, with or without seating for spectators, and that provides accommodations for a variety of individual, organized or franchised events, including but not limited to arcade, arena, art gallery, art studio, art center, auditorium, athletic center, bowling alley, community center, exhibit hall, game center, gymnasium, library, museum, performance theater, skating rink, swimming pool, tennis court and support facilities.
- *Recreation facility, outdoor* means a recreational land use conducted in open or partially enclosed or screened facilities, including but not limited to athletic fields, driving ranges, miniature golf, swimming pools, racquet courts, basketball courts, skate parks, bike parks, motorized model airplane facilities and motorized cart tracks.

- *Recycling facility* means a building or site used for the collection and/or processing of recyclable material. *Processing* means the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building, shall be considered a warehouse.
- *Resource extraction, processes and sales* means removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.
- *Restaurant, drive-through* means any establishment in which the principal business is the sale of food 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.
- *Restaurant, fast-food* means any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation includes the following characteristics:
 1. Food and beverages are usually served in paper, plastic, or other disposable containers.
 2. The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises, at other facilities on the premises outside the restaurant building or for carryout.
 3. The overall operation is intended to move the maximum number of customers in the minimum amount of time.
- *Restaurant, standard* means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, where fermented malt beverages and/or malt, special malt or vinous and spirituous liquors may be produced or served on the premises as an accessory use and where the design or principal method of operation includes one (1) or both of the following characteristics:
 1. Customers are served their food and/or beverages by a restaurant employee at the same table or counter where the items are consumed.
 2. Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.
- *Re-subdivide* means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the County Clerk and Recorder.
- *Retention basin* means a pond, pool or basin used for permanent storage of water runoff.
- *Ridgeline* means a line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.
- *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 is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. 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.

- *Roadway* means that portion of the street between the regularly established curb lines.
- *Sanitary facilities* means amenities such as toilets, urinals, lavatories, showers, utility sinks and drinking fountains and the service buildings containing these units.
- *Sanitary waste station* means a facility used for removing and disposing of waste from self-contained camping vehicle sewage-holding tanks.
- *Septic system* means individual sewage disposal systems as defined by the Weld County Department of Public Health and Environment.
- *Service building* means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.
- *Setback* means the required unoccupied open space between the nearest projection of a building or specific part thereof and the nearest property line of the lot on which the structure is located.
 - *Setback, front yard* means the distance a building or structure must be placed from the front lot line.
 - *Setback, rear yard* means the distance a building or structure, excluding an open deck, must be placed from the rear lot line.
 - *Setback, side yard* means the distance a building or structure must be placed from the side lot line.
- ~~*Severance: HomeTown Vision is the formal title of the 2020 Severance Comprehensive Plan.*~~
- *Shared parking* means parking that is utilized by two (2) or more businesses in the immediate vicinity.
- *Shopping center* means a group of retail and service establishments located in a complex that is Planned, developed, owned, or managed as a unit with off-street parking provided on the property.
- *Short-term rental means the rental offered for less than 30 consecutive days of any property or portion of a property that is available for lodging, whether a whole house, a private room or space in a house, or shared accommodations; except that the term excludes a hotel or motel unit.*
- *Sight distance triangle* means the area at the four (4) corners of an intersection that is to be kept free of shrubs, groundcover, berms, fences, structures or other materials or items greater

than thirty-six (36) inches in height. Trees shall not be Planted in the triangular area. The size of the sight distance triangles is determined as follows:

1. At the intersection of any two (2) streets or where a street intersects with an alley, a triangle measuring thirty (30) feet along each curb or edge of roadway from its point of intersection, the third side being a diagonal line connecting the first two (2).
 2. At the intersection of a driveway or private access and a street, a triangle measuring fifteen (15) feet in length along the edge of the driveway and along the curb or edge of roadway from its point of intersection, the third side being a diagonal line connecting the first two (2).
- *Sign, window* means a sign that is painted on, applied to, or attached to a window or that can be read through the window from the public right-of-way.
 - *Significant wildlife habitat and migration corridors* means areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.
 - *Site Plan* means a scale drawing that shows proposed uses and structures for a parcel of land. Included are the actual measurements of lot lines, lot area, streets, private roadways, 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 and spaces, access points, landscaped area, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements. A site plan is a more detailed representation of a proposed development than is shown on a plat and may also include statistical data as required.
 - *Site-specific development Plan* means the final plat of a subdivision or final development Plan when approved by the Town Council pursuant to Article 4 of this Code.
 - *Small animal Boarding*. See *Kennels*.
 - *Small lot detached development* means a division or redivision of land to create single-family detached dwelling units in appropriately zoned property. Each unit is located on its own fee-simple lot, typically surrounded by common open space which is often managed by an association or similar entity.
 - *Street furniture* means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.
 - *Streetscape* means the distinguishing character of a particular street within 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.

- *Subdivision* means the division or re-division of land into one or more lots, tracts, or other parcels of land, or other division or re-division for the purpose, whether immediate or future, of transfer of ownership or sale of ownership of real estate or property. The term “subdivision” shall not apply to any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners or any other exemption granted in Section 30-28-101(10)(b), C.R.S.
- ~~Subdivision shall include, but not be limited to, the following types of developments and/or legal interests relating to the process of subdividing or to the land or territory subdivided:~~
 - ~~(a) Division of land: The division of land, whether by deed, metes and bounds description, map, plat, or other recorded instrument.~~
 - ~~(b) Time share interests: The formation of interval estates, time share estates, time span estates and other time sharing interests as defined by the Condominium Ownership Act.~~
 - ~~(c) Common interest community: The establishment of land as a common interest community, even if it does not include common property, except for a cooperative, as defined in the Colorado Common Interest Ownership Act.~~
- *Subsidence* means a local mass movement that involves the downward settling or sinking of the solid earth surface, commonly known as a sinkhole. Subsidence may be due to natural geologic processes or human activity such as mineral extraction.
- *Supermarket* means a retail establishment primarily selling food as well as other convenience and household goods, which occupies a space greater than twenty-five thousand (25,000) square feet.
- *Temporary use* means a prospective use intended for limited duration to be located in a zoning district that does not permit such use. Such use may not exceed one hundred eighty (180) days unless renewal, limited to one (1) time, is granted by the Town Council and the use does not involve the construction of any permanent structure. Temporary uses are regulated in this Code. A *temporary use* shall not include continuing a nonconforming use or building.
- *Title commitment* means a formal documentation from a title company, listing the name of the owner of the property, the legal description of the property and any items of public record affecting title to such property, including easements, secured interests, liens or other items, appurtenances, and encumbrances.
- *Town Council* means the governing Board of the Town.
- *Townhome unit* means a single-family attached dwelling of three (3) or more units but not more than six (6) dwelling units per structure. Each unit has direct access to the outside, and the units are attached to each other by party walls. No unit is located over another unit.
- *Tree lawn (tree way)* means a strip of landscaping within the right-of-way, generally between the roadway and adjacent sidewalk.

- *Trip* means a single or one-way vehicle movement to or from a property or study area. 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.
- *Unshielded Lighting* means lighting that does not have a barrier preventing horizontal or vertical light trespass. Such lighting shall only be used in the Town of Severance for security purposes or as otherwise specified in code.
- *Vehicle major repair, servicing and maintenance* means any building, land area, premises, or portion thereof where heavy maintenance activities, such as engine overhauls, automobile or truck painting, body or fender work, welding, or the like, are conducted. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Vehicle minor repair, servicing and maintenance* means the use of any building, land area, premises, or portion thereof where light maintenance activities, such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like, are conducted.
- *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 and in accordance with Article 8 of this Code and other applicable laws, ordinances, or regulations.
- *Walkway* means a right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path or any portion of a parking lot area restricted to the exclusive use of pedestrian travel.
- *Warehouse and distribution* means a use engaged in storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms or incidental retail sales but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.
- *Warehousing* means a business storing or stocking merchandise or commodities.
- *Wireless communication equipment* means equipment used to provide wireless telecommunication service that is not affixed to or contained within a wireless communication facility but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. *Wireless communication 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.
- *Wireless communication facility* means any freestanding facility, building, pole, tower, or structure used to provide only wireless communication services and that consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless communication services.
- *Wireless communication services* means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission

for paging systems, enhanced specialized wireless communication, personal communication services or cellular telephones.

- *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.
- *Yard* means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zoning district in which the lot is located.
- *Yard, front* means a yard extending across the full width of the lot between a front lot line and the nearest line or point of a building.
- *Yard, rear* means a yard extending across the full width of a lot between the rear lot line and the nearest line or point of a building, not including an open deck.
- *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.
- *Zero lot line townhouse development* means the division of land to create single-family attached dwelling units, as defined in this Code, with common (or “party”) walls. Each unit is located on a lot in such a manner that one or more of the dwelling’s sides rests on a lot line. Each unit has its own entrance opening to the outdoors (to the street, alley, or private tract) and, typically, each house is a complete entity with its own utility connections. Although most townhouses have no side yards, they have front and rear yards. The land on which the townhouse is built, and any yard, is owned in fee simple.
- *Zoning district* means a designation of zoning category by the Town as set forth in [Section 3 of this Code](#).
- *Zoning map* means the official map adopted by the Town, as amended from time to time, depicting the location of zoning districts throughout the area of property within the Town's municipal boundaries.

Article 1 – General Provisions

Section 16.1.10. Overview.

- (a) *Title.* This Chapter 16 is known as the Severance Land Use Code. References to “this Code,” “the Development Code,” or “these regulations” shall be considered a reference to the Severance Land Use Code. This Code establishes the regulations and standards governing the use and development of land within the Town. Included are provisions for the annexation, subdivision, and zoning of land, as well as the administrative procedures governing the submission of applications, administrative and public reviews, and appeals. Also included are Town standards for site and building design, landscaping, parking, and public infrastructure.
- (b) *Authority.* This Code is adopted pursuant to the purposes and authority contained in the Colorado Revised Statutes (CRS) and the Colorado Constitution, Article XX, and the Severance Charter, independent of and in addition to the CRS, Title 31, Article 23. This title also supersedes any state legislative enactments which are, by their terms, subject to being superseded by adopted home rule charters or ordinances. Whenever a section of the CRS cited in this 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. Additional statutory authority may exist for specific types of land use regulations.
- (c) *Jurisdiction.* This Code shall apply to all structures and land within the Town's corporate boundaries, as depicted on the official zoning map. The Town's planning jurisdiction includes all land within the corporate limits and, where applicable, the lands within the Growth Management Area (GMA) as defined in the adopted Comprehensive Plan. Maps showing these and other regulatory boundaries shall be available for public inspection with the Town. For purposes of zoning and subdivision, this Code only applies to lands within the Town's corporate boundaries. It shall be unlawful to conduct any development or use of land until all specified development review processes have been followed, all applicable standards have been fulfilled, and all required approvals, permits or other authorizations have been issued.
- (d) *Purposes.* This Code is adopted to promote the public health, safety, and general welfare for the Town and its’ citizens and businesses. The regulations have the following purposes:
1. Create a vital, cohesive, well-designed community to enhance the Town’s character and further the citizen’s vision, goals, and objectives.
 2. Implement adopted plans, policies, and programs, including the current Comprehensive Plan.
 3. Promote the physical, social, and economic well-being of the Town and its’ citizens and businesses.
 4. Invest public funds effectively and efficiently, and in a manner that creates lasting value for the community.

5. Promote innovative, quality community planning and design that creates distinct places and unique elements that enhance the character of the community.
6. Provide parks, trails, and civic spaces that help organize development around systems of connected open spaces.
7. Promote the proper arrangement and design of streets to shape efficient neighborhood development patterns to improve access and circulation patterns.
8. Coordinate with existing and planned streets to improve access and circulation patterns that support abutting land uses.
9. Divide the community into zoning districts that promote the character and development patterns of distinct places identified in the Comprehensive Plan.
10. Regulate the development and use of structures and land within each zoning district to create compatible development patterns.
11. Promote appropriate transitions to adjacent properties.
12. Provide a variety of housing opportunities for all citizens.
13. Facilitate the adequate and efficient provision of public and private infrastructure to support the Town's adopted vision and values.
14. Direct new development into areas with adequate public and private infrastructure and to areas that conserve environmentally sensitive lands and protect citizens from environmental hazards and dangers.
15. Facilitate clear and consistent development procedures for all citizens and businesses.

Section 16.1.20. Interpretation.

The provisions of this Code shall be interpreted and applied as the minimum requirements for the promotion of public health, safety, and welfare. Whenever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, or sections, the more restrictive or that imposing the higher standard shall govern.

(a) *General Rules.* The following rules shall apply to the application and interpretation of these regulations, unless otherwise stated within this Code:

1. The singular includes the plural, and the plural includes the singular.
2. The words "must," "shall," and "will" are mandatory; whereas the words "may," "can," "should" and "might" are permissive but recommended as a way to best meet the standard or achieve the intent of the standard.
3. The word "lot" shall include the words "building site," "site," "plot," or "tract."
4. A building or structure includes any part thereof.
5. The present tense includes the future tense, and the future tense includes the present tense.
6. Lists of examples prefaced by "including the following," "such as," or other similar clauses shall not be construed as exclusive or exhaustive and shall not preclude an interpretation of the list to include other similar and non-mentioned examples.

7. The conjunctive “and” in a list means that all apply; the conjunctives “or” and “and/or” mean the provisions may apply singly or in any combination; and the conjunctive “either ... or” means the provisions apply individually but not in combinations.
8. When calculations to determine a requirement result in a fraction that cannot be divided (*i.e., parking spaces, trees, dwelling units, etc.*) it shall be rounded up to the nearest whole number.
9. Any references to “Town Manager,” “Manager,” or any other official may also include any designee of the Town Manager.
10. For processes and procedure timeframes that specify a certain number of “days,” it shall be assumed to mean “calendar days,” unless otherwise specified.
11. Any reference to other official local, state, or federal government rules or regulations shall include the most current versions of those rules or regulations.
12. References to a person shall include the individual, a partnership, association, agency, corporation, or other legal entity and their associated representatives.

(b) *Interpretation of the Zoning Map.* Where uncertainty exists with respect to any boundary on the official zoning map, the following rules shall apply:

1. **Property Lines.** Zoning district boundaries shall be interpreted as following platted or official legal property lines unless these lines have been substantially altered.
2. **City Limits.** Zoning district boundaries shall be interpreted as following the official Town limits.
3. **Other Features.** Zoning district boundaries shall be interpreted as following the centerline of streets, rights-of-way, rivers, or other similar features.

(c) *Official Interpretations of this Code.* The Town Manager or their designee may make official interpretations in cases where there is uncertainty to the criteria of this Code. Such interpretations shall be made in writing to applicants and documented at the Town. When making an official interpretation, the following criteria shall be used:

1. Rational professional and technical planning principles.
2. Town adopted goals and policies of the Comprehensive Plan and other adopted plans and policies.
3. The purposes, intent, or criteria applicable to this Code and the specific article or sections related to the interpretation.
4. Applicable and available resources, guidelines, or industry standards.
5. The context and physical characteristics of the surrounding neighborhood and/or environment.
6. If the interpretation could be applied in a similar circumstance or situation.

(d) *Non-regulatory Provisions.* Purpose statements, development, and design criteria, supporting tables and/or graphics, and analysis such as captions or notes to figures and tables provide

additional guidance or simplification to an interpretation of the Code criteria. In the event of a conflict, the specific written criteria shall control.

- (e) *Resources, Guides, and Industry Standards.* Reputable professional and technical planning resource guides and industry “best practice” standards may be used by the Town to supplement this Code, as determined by the Town Manager. These resource guides and/or standards should only be used to clarify the adopted criteria or the purposes of this Code. They shall not be used to conflict with any adopted criteria but may be used in text amendments by the Town.

Section 16.1.30. Relationship to existing regulations and adopted plans.

All existing ordinances, resolutions, or motions of the Town Council in conflict with this Code are, to the extent of such conflict, hereby superseded and repealed, provided that no such repeal shall repeal the clauses of such section, resolution, or motion, nor revive any section, resolution, or motion thereby. The adoption of this Code shall not adversely affect the Town's right to seek remedies for any violation of previous sections that occurred while those sections were in effect.

- (a) *Comprehensive Plan and Advisory Documents.* It is the intent of the Town that this Code implements the planning policies adopted in the Comprehensive Plan, its’ GMA, and all other adopted Advisory Documents. While this relationship is reaffirmed, it is the intent of the Town that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with the Comprehensive Plan and/or adopted Advisory Documents, nor may any action taken in conformity with this Code be challenged on the basis of claimed inconsistency with the Comprehensive Plan and/or adopted Advisory Documents.
- (b) *Requirement for Comprehensive Plan amendment.* Where a development proposal does not conform with the Comprehensive Plan, an amendment to the Comprehensive Plan will be required before any zoning or subdivision approvals. The process for a Comprehensive Plan amendment can be found in Article 2 of these regulations.

Section 16.1.40. Severability.

- (a) If any court of competent jurisdiction invalidates any provision of this Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Code.
- (b) If any court of competent jurisdiction invalidates the application of any provision of this 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.

- (c) If any court of competent jurisdiction judges invalid 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.

Section 16.1.50. Administration.

- (a) *Administrative Authority on Certain Land Use Applications.* Notwithstanding any other provision of this Code and subject to any limitations established by state statute, the Town Manager or such official's designee may act administratively, without resort to the Town Council or the Planning Commission with respect to minor modifications as provided for in Article 2 of these regulations.
- (b) *Town Manager.* The Town Manager may delegate their authority to a department or staff position (designee) to administer and interpret certain or all aspects of this Code. Other department heads and staff may serve in an advisory role under this Code. In addition to the direct authority granted by the Charter and local ordinances, the Town Manager shall have specific review responsibilities and final administrative decisions referred to the Town Manager under the procedures and standards of these regulations. The Town Manager may bring forward amendments to the Comprehensive Plan, Zoning Map, and these regulations.

The Town Manager or their designee shall assume the role as the administrator, the principal interpretation and enforcement official of these regulations, and may consult with town staff or relevant outside agencies to coordinate any plans, policies, and programs that impact these regulations or adopted plans and policies. Such responsibilities shall include:

1. Prepare and provide development application forms and administer the requirements and review of submittals.
 2. Oversee the application, review, and administration processes and prepare presentations and reports for review bodies.
 3. Issue official interpretations and approve the use of other resources, guides, and industry standards used in administering this Code.
 4. Make final interpretations and final administrative decisions under the procedures and standards of these regulations.
- (c) *Planning Commission.* The Planning Commission is the appointed body responsible for long-range and comprehensive planning. The Planning Commission is established according to the Town Charter. In addition to all other general planning authority granted by the Charter, statutes, and local ordinances, the Planning Commission shall have the specific review responsibilities and final authority referred to the Planning Commission under the procedures and standards of these regulations, as appointed by the Town Council.

- (d) *Town Council.* The Town Council is the elected and governing body responsible for all legislative decisions that affect the implementation of adopted plans, regulations, and policies. In addition to other general authority granted by law, the Town Council shall have the final decision authority as outlined under the procedures and standards of these regulations.
- (e) *Board of Adjustments.* The Board of Adjustments (BOA) shall act in accordance with the same rules and procedures that govern the Planning Commission and Town Council. Pursuant to Section 31-23-307(1), CRS, and as amended, the Town Council hereby appoints itself to serve as the BOA. The BOA shall hear and decide major variance and appeal requests.
1. The BOA shall have the following powers and duties, all of which shall be subject to and in compliance with the laws of the State, in harmony with the purpose and intent of this Code and the most appropriate development of the neighborhood.
 - a. To hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcement of the provisions of this Code, as identified in procedures Article of this Code.
 - b. To review and decide on major variance requests from the terms of this Code in accordance with the major variance review criteria and procedures of this Code.

Section 16.1.60. Enforcement.

- (a) *Responsible enforcement entity.* The Town Manager or their designee shall be responsible for enforcing the provisions of this article.
- (b) *Violations and enforcement procedures.*
1. Violations: It shall be unlawful to violate any provision of this Code.
 2. Specific activities violating this Code: It shall be a violation of this Code to undertake any of the following activities:
 - i. Activities inconsistent with Code: Erecting, constructing, reconstructing, remodeling, altering, maintaining, expanding, demolishing, moving, or using any building, structure, or sign, or engaging in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this Code, including terms and conditions of all required approvals.
 - ii. Land-disturbing activities inconsistent with the Code: Excavating, grading, cutting, clearing, or undertaking any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations.
 - iii. Nonconforming uses or structures inconsistent with Code: Creating, expanding, replacing, or changing a nonconforming use, structure, lot, or sign, except in compliance with this Code.
 - iv. Making lots or setbacks nonconforming: Reducing or diminishing the lot area, setbacks or open space below the minimum required by this Code.

- v. Increasing intensity of use: Increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Code.
 - vi. Activities inconsistent with permit or approval: Engaging in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval or other form of authorization required to engage in such activity, whether issued under or required by this Code.
 - vii. Activities inconsistent with conditions of approval: Failing to comply with any terms, conditions or limitations placed by the Town upon any final development Plan, subdivision plat, permit, or other form of approval by the Town.
 - viii. Agreements to convey: Making any agreement to convey or conveyance of any lot or undivided parcel of land, contrary to the provisions of this Code or prior to approval of a final plat by the Town; it shall be a separate violation for each lot or parcel of land sold or agreed to be sold.
 - ix. Activities inconsistent with the order of Town: Failing to comply with any stop work order, abatement order or any other order issued by the Town pursuant to this Code.
3. Separate violations: Any person who violates or causes the violation of any of the provisions of this Code shall be guilty of a separate offense for every day or portion thereof during which a violation is committed, permitted, or continues.
4. Remedies and enforcement powers: The Town Manager shall have the following remedies and powers to enforce this Code:
- i. Civil remedies and enforcement powers.
 - A. Deny/withhold entitlements: The Town Manager may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether the current owner or applicant for the permit or other approval is responsible for the violation.
 - B. Revoke entitlements. Any entitlement or other form of authorization required under this Code may be revoked when the Town Manager determines one or more of the following:
 - I. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement.
 - II. The entitlement was procured by false representation.
 - III. The entitlement was issued in error.
 - IV. There is a violation of any provision of this Code.

Upon revoked entitlements: Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to

whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.

B. Stop-work orders:

- I. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any State or local Building Codes, or in a manner that endangers life or property, the Town Manager has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
 - II. With or without revoking permits, the Town Manager may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of an entitlement or other form of authorization issued under this Code.
 - III. The stop-work order shall be in writing and posted at the site of the work and shall specify the provisions of this Code or other law allegedly in violation. After any such order has been posted, 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.
 - IV. Once conditions for resumption of the work have been met, the Town Manager shall rescind the stop-work order.
- C. Civil penalties: Violation of this Code may be punishable through imposition of a civil penalty as set forth in the Town's Municipal Code.
- D. Injunctive relief: The Town Manager may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this Code, or any requirement or condition imposed pursuant to this Code. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this 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 Code violation.

- E. Abatement: The Town may abate the violation pursuant to the procedures set forth in Chapter 7 of the Town's Municipal Code, with the following modifications:
 - I. Unless the notice is appealed, pursuant to Article 2 of these regulations, to the Board of Adjustment within ten (10) days of service of the notice, the Town Manager shall proceed to abate the violation.
 - ii. Criminal remedies and enforcement powers.
 - A. Misdemeanor: A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this Code exists, where notice of violation, including any stop-work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice stop-work, enforcement, or compliance order.
 - B. Penalty: Failure to comply with all the provisions of this Code shall constitute a misdemeanor and, upon conviction, is punishable as set forth in Article 4 (General Penalty) of Chapter 1 of the Town's Municipal Code. Each day that such violation continues to exist shall be considered a separate offense.
5. Persons responsible: The owner, tenant or occupant of any building or land or part thereof, as well as any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Code, may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
6. Remedies cumulative: The remedies provided for violations of this Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law or equity and may be exercised in any order. Each twenty-four (24)-hour period or portion thereof is considered a separate violation under this Code.
7. Continuation of prior enforcement actions: Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.
8. Liability of Town: This Code shall not be construed to hold the Town responsible for any damages to persons or property by reason of the inspection or reinspection or failure to inspect or reinspect, by reason of issuing a building permit or by reason of pursuing or failing to pursue an action for injunctive relief.
9. Violations: Violations of this Code may be enforced in the municipal court or any other court with jurisdiction, by any appropriate equitable action, by abatement, by issuance of stop work orders, by injunction and restraining order, by revoking any permits or approvals issued and by assessing any amounts due or delinquent fines as taxes. Any one (1) or any combination of the foregoing penalties and remedies may be used to enforce this Code.

10. Costs and attorney's fees for enforcement for abatement to be paid to the Town: Costs and attorney's fees associated with said abatement shall be charged to the owner of the property on which said violation has occurred and any other person responsible for the violation, as defined in this Code.

Division 1 – Nonconforming Structures and Uses

Section 16.1.110. General Provisions.

- (a) *Purpose.* The purpose of this Article is to regulate and limit the development and continued existence of zoned legal uses, structures, lots, signs, and use characteristics such as parking and landscaping, established prior to the adoption of this Code, or the adoption of future amendments to this Code, that no longer conform to the requirements of this Code. All such situations are collectively referred to in this Article as “nonconformities.” While nonconformities may continue, the provisions of this Article are designed to curtail substantial investment in nonconformities to bring about their eventual elimination in order to preserve the integrity of this Code and the character of the Town.
- (b) *Authority to Continue.*
1. *Generally.* Any nonconformity that lawfully existed as of the adoption of this Code and that remains nonconforming, and any nonconformity that is created as a result of any subsequent rezoning or amendment to the text of this Code, may be continued or maintained as a nonconformity only in accordance with the terms of this Article.
 2. *Exception Due to Variances or Minor Modifications.* This Article shall not apply to any development standard or feature that is the subject of a variance or minor modification granted under this Code. Where a variance or minor modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this Code, that development standard or feature shall be deemed conforming.
- (c) *Determination of Nonconformity Status.* In all cases, the burden of establishing the existence of a legal nonconformity shall be solely upon the owner of the nonconformity, not the Town.
- (d) *Nonconformities Created Through Government Action.* If a structure, use of land, use of structure, or characteristic of use does not comply with the requirements of this Code solely as a result of an acquisition of land or other action by a government agency for a public purpose, then such structure, use of land, use of structure, or characteristic of use on land not acquired by the government shall be deemed conforming. For purposes of this Section the word “land” means fee simple interest in real estate.
- (e) *Change of Ownership or Tenancy.* Changes of ownership, tenancy, or management of property with an existing nonconformity are permitted but such nonconformities shall continue to be subject to the provisions of this Article.
- (f) *Damage or Destruction.*
1. If a nonconformity is damaged or destroyed by any means to an extent greater than fifty percent (50%) of its floor area or its actual value at the time of damage or destruction

(as determined by the Weld County Assessor), then such nonconformity shall not be re-established or restored to its original condition unless it is made to conform to the requirements of this Code.

2. Where a nonconforming building is damaged less than fifty percent (50%) of its floor area or its actual value at the time of damage or destruction (as determined by the Weld County Assessor), it may be repaired or restored, provided any such repair or restoration is started within six (6) months and is completed within eighteen (18) months from the date of partial destruction.

(g) Maintenance and Minor Repair.

1. Minor repairs or maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the minor repair or maintenance does not increase the extent or degree of the nonconformity. For purposes of this Section, “maintenance or minor repair” shall mean:
 - i. Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
 - ii. Maintenance of land areas to protect against health and environmental hazards and promote the safety of surrounding land uses; and
 - iii. Repairs that are required to remedy unsafe conditions that cause a threat to public safety.

(h) Improvements Triggering Upgrades in Nonconforming Characteristics. If an application is filed for a building permit or for reconstruction, remodeling, expansion, or other improvements of a multi-family, commercial, industrial, or mixed-use structure, and (b) the value of the proposed improvements total more than twenty-five (25) percent of its replacement cost of the primary structure(s) on the property, the applicant shall be required to address the following nonconformities prior to, or as part of the improvements authorized by, such land use permit or building permit, unless the town determines that such nonconformities have no significant adverse impact on surrounding properties:

1. Screening of mechanical equipment;
2. Screening walls or fences (for parking areas or storage areas);
3. Driveway surfacing;
4. Landscaping;
5. Parking; and
6. Lighting.

Section 16.1.120. Nonconforming uses of land.

- (a) *Limitations on Continuation of Nonconforming Uses of Land.* Nonconforming uses of land or structures may continue, subject to the general provisions of Section 16.18.10 and the following limitations:
1. No nonconforming use of land shall be expanded, enlarged, or increased. An expansion of a nonconforming use shall include, but is not limited to, any change that results in any of the following: (a) an increase in usable floor area or an increase in percentage of the use of the parcel or lot, of a non-residential use; (b) the addition of a dwelling unit to a residential use. Any nonconforming use on a lot or portion thereof may be altered to decrease its nonconformity.
 2. No nonconforming use of land 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 the regulations that make the use nonconforming.
 3. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of the applicable regulations, but no such use shall be extended to occupy any land outside such buildings.
 4. No additional structure not conforming to the requirements of this Code shall be erected in connection with the nonconforming use of land or structure.
- (b) *Change of Use.* A nonconforming use permitted under this Code shall not be changed or replaced with a different nonconforming use.
- (c) *Abandonment or Cessation of Use.* If a nonconforming use ceases for any reason, except when government action impedes access to the premises, on a lot or any portion of a lot for a period of more than six (6) consecutive months, the nonconforming use shall be considered abandoned. Once abandoned, the prior legal nonconforming status of the use shall be considered terminated, and re-establishment of the use shall be prohibited. Any subsequent use of the property shall comply with all applicable provisions of this Code.

Section 16.1.130. Nonconforming structures.

- (a) *Continuation of Nonconforming Structures Generally.* Nonconforming structures may continue, subject to the general provisions of Section 16.18.10 and the following limitations:
1. No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, including but not limited to any new construction in violation of required setbacks or building height in the applicable zone district; but any structure or portion thereof may be altered to decrease its nonconformity. This Subsection shall not be construed to allow the expansion of a nonconforming use of structure.

2. Should a nonconforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
3. Structural changes to a nonconforming building that have the effect of increasing the life of the nonconforming building shall not be permitted, unless the building official determines that such change is necessary to rectify a hazardous condition or safety concern.

Section 16.1.140. Nonconforming lots of record.

- (a) Unless otherwise provided in this Code, single-family residences and customary accessory buildings may be erected on any legally created single lot of record existing at the time of adoption of this Code. Such a lot must have been in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though such lot fails to meet the requirements of the district in which it is located for area, width or both area and width; provided however, that the minimum setback requirements of the district shall be met unless a variance has been granted as provided herein.
- (b) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of adoption of this Code, and part or all of said lots do not meet the requirements of the zone district in which they are located as to minimum area or width, or both minimum area and width, for the purpose of this Article, the lands shall be considered to be an undivided parcel, and no portion of said parcel shall be sold or used in a manner which diminishes compliance with the lot area and width requirements established in this Code.

Section 16.1.150. Nonconforming signs.

- (a) *Termination of Legal, Nonconforming signs.*
 1. The purpose of amortization is not only to provide a reasonable grace period during which the owner is permitted to continue a legal, nonconforming sign, and to recover its economic investment, but also to assure that the district in which the nonconforming sign exists will eventually benefit from a substantial uniformity of permanent and conforming signs.
 2. A nonconforming sign shall be removed and brought into compliance with this Code upon verification that any of the following conditions have been met:
 - i. The use to which such non-conforming sign refers has been abandoned for a continuous period of 180 days;
 - ii. Such sign is damaged or destroyed, and the cost to repair, restore or replace the sign exceeds fifty percent (50%) of the cost of a new sign; or

- iii. The regulation or amendment to the Code that made the sign nonconforming has been in effect for ten years or more.

(b) *Extension of Time to Comply.* The time for a sign to be brought into compliance with the requirements of this Code may be extended at the request of the sign owner or lessee. In evaluating the extension of time for a nonconforming sign, the town shall consider the following factors to determine whether the owner of the sign has had a reasonable amount of time to recoup the initial investment:

1. The value of the sign at the time of construction and the length of time the sign has been in place;
2. The life expectancy of the physical structure and its salvage value, if any;
3. The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes;
4. The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance;
5. The extent to which the sign is not in compliance with this article;
6. The degree to which the town determines that the sign is consistent with this Code and its purposes; and
7. Whether the sign has historical or landmark significance and should, therefore, be exempt from amortization.

(c) *Maintenance, Alteration, Reconstruction or Replacement of Nonconforming Signs.* All legal, nonconforming signs shall be maintained in good condition, and shall not be:

1. Changed to another nonconforming sign;
2. Structurally altered;
3. Altered to increase the degree of nonconformity of the sign;
4. Expanded;
5. Re-established after discontinuance for 90 consecutive days of the use to which the sign pertained;
6. Continued after a change of the use or activity to which the sign pertains; or
7. Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty percent (50%) of the cost of replacement.

Division 2 – Vested Property Rights (*Article 8, Chapter 16*)

Section 16.1.210. Purpose. (*Sec. 16.8.10*)

This article specifies procedures necessary to implement Article 68 of Title 24, CRS, which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site-specific development plan. No vested rights shall be created within the Town except through a site-specific development plan. For purposes of this Article of Code, a site-specific development plan shall be limited to the following: preliminary subdivision, final subdivision, site plan, and/or a development agreement that creates a vested property right and is adopted as a legislative act of the Town. Zoning and annexation shall not result in the creation of vested property rights, other than as accompanied by the approval of a site-specific development plan. For all other development application types of this Code, applicants should reference the Lapse of Approval criteria and application specific Effect of Decision criteria of this Code.

Section 16.1.220. General provisions.

- (a) *Request for site-specific development plan approval.* Landowners wishing the creation of vested property rights pursuant to Article 68 of Title 24, CRS shall request such approval in writing at least thirty (30) days prior to the date that the approval is to be considered. Failure of the landowner to request such an approval renders the Plan not a “site-specific development Plan” and no vested property rights shall be deemed to have been created.
- (b) *Notice and hearing.* No site-specific development plan shall be approved until the Town publishes notice of such a hearing in accordance with the applicable development application notification requirements of Article 2 of this Code. Such notice may, at the Town’s option, be combined with any other required notice. At such a hearing, all interested persons shall have an opportunity to be heard.
- (c) *Approval, conditional approval, effective date, amendments, referendum, and review.*
 1. A site-specific development plan shall be deemed approved upon the effective date of the Town action granting final approval of the Plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.
 2. The Town Council may approve a site-specific development plan with terms and conditions as may be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by all such terms and conditions shall result in a forfeiture of the vested property right.
 3. In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site-specific development plan unless

the Town Council specifically finds to the contrary and incorporates such findings in its approval of the amendment.

4. The approval of vested property rights shall be subject to all rights of referendum and judicial review.
5. The approval of vested property rights shall be subject to all rights of referendum and judicial review, except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site-specific development plan and creation of vested property rights.

(d) Notice of approval.

1. Each plat or site plan constituting a site-specific development plan by this Code shall contain the following notice:

“This Plan constitutes a site-specific development plan as defined in Article 68 of Title 24, CRS and as adopted as part of the Land Use Code by the Town of Severance, Colorado.”

Failure to contain this statement shall invalidate the creation of the vested property right.

- (e) Duration of vested property right.* A property right that has been vested as provided herein shall, upon compliance with the terms and conditions of the approval thereof, remain vested for a period of two (2) years, except that the Town Council may, in its sole discretion, grant vested property rights for a longer period within a final plat, site plan, and/or development agreement when warranted in light of all relevant circumstances, including but not limited to the size and phasing of the development, economic cycles and market conditions. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Town Council in an ordinance approving such amendments. For purposes of this Code, completion of a development shall include installation of all engineered improvements (i.e., water, wastewater, streets, curb, gutter, sidewalks, fire hydrants and storm drainage improvements) in accordance with the Town rules and regulations.

- (f) Extensions.* A vested property right may be extended for periods of one (1) year by the Town Council. The property owner must request an extension in writing not later than thirty (30) days prior to the date of expiration of the vested right. Prior to the expiration of the original vesting timeframe or the extension timeframe, an applicant may formally request an additional extension if substantial progress has been made on installation of public improvements. In considering whether to grant an extension, the Town Council shall apply the following criteria:

1. That there is no conflict with this Code or that any conflict with the Code can be corrected by an amendment to the Plan, which shall be presented with the request for extension.
2. That the applicant has demonstrated that the Plan continues to be compatible with adjacent properties and the surrounding areas or that compatibility may be established

by an amendment to the Plan, which shall be presented with the request for an extension.

3. That the applicant has demonstrated that the Plan is consistent with the Town's Comprehensive Plan.

(g) *Other provisions unaffected.* Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions or requirements of this Code or the Town pertaining to the development or use of property, adopted or applicable before or after the approval of the site-specific development Plan.

(h) *Payment of costs.* In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site-specific development plan shall pay all costs incurred by the Town related to such application, including but not limited to publication of notices, public hearing costs, county recording fees and third-party review costs.

(i) *Limitations.* This article is enacted pursuant to the provisions of Article 68 of Title 24, CRS. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof no longer effective.

(j) *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 to 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 Plan submitted for approval as a site-specific development plan notice of any natural or human-made hazards on or in the immediate vicinity of the subject property that are known to the applicant or could 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.

Division 3 – Definitions (Chapter 16, Article 7)

Section 16.1.310. Definitions.

As used in this Code, the following words shall have the following definitions ascribed to them, unless otherwise provided for in this Code.

- *Accessory building* means a subordinate building or structure, the use of which is customarily incidental to that of the main building or to the main use of the land, which is located on the same lot (or on a contiguous lot in the same ownership) with the main building or use. Accessory buildings are only permitted when they are incidental or accessory to an existing and permitted principal or special use.
- *Accessory dwelling* or *ADU* means an internal, attached, or detached dwelling that provides complete independent living facilities for one or more individuals; is located on the same lot as the proposed or existing primary residence; and includes facilities for living, sleeping, eating, cooking, and sanitation. An ADU may also be known as an “accessory apartment”, “secondary suite”, or “mother-in-law apartment.”
- *Accessory use* means a subordinate use, incidental and related to the main structure, building or main use of land, which is located on the same lot (or on a contiguous lot in the same ownership) as that of the main building or to the main use of the land.
- *Active open space* means an open space area developed primarily for community access and recreation including sports, exercise, or active play. These areas may include hardscape or landscape areas that have been formally designed and constructed.
- *Adjacent* means meeting or touching at some point or separated from a lot or parcel by one (1) of the following: a street, alley, other right-of-way, lake, stream, or open space.
- *Adjacent on-street parking* means on-street parking that is located directly next to a proposed development. At least fifty percent (50%) of the length of the proposed space must be within the dimensions of the proposed development to be eligible as an adjacent on-street space.
- *Adjacent property owner* means an owner of record of any estate, right or interest in real property adjacent to or within a three hundred (300)-foot radius of the subject property.
- *Adult-oriented use* means a 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 material that is distinguished or characterized by its emphasis on depicting, exhibiting, describing or relating to specified sexual activities or specified sexually related anatomical areas as the primary attraction to the premises. For purposes of this Code, the definition of *adult-oriented use* shall not include a use of property where a medical practitioner, psychologist, psychiatrist or similar professional licensed by the State engages in a medically recognized practice, including but not limited to sexual therapy.

- *Affordable housing unit for rent* means a dwelling unit that is available for rent on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Town residents, as adjusted for family size as determined by the U.S. Department of Housing and Urban Development, 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 households for a period of at least twenty (20) years or permanently.
- *Affordable housing unit for sale* means a dwelling unit that is available for purchase on terms that would be affordable to households earning eighty percent (80%) or less of the median income of Town 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, reserved, or marketed for occupancy and affordable to such low-income households for a period of at least twenty (20) years or permanently.
- *Agricultural land* means real property that is being used for one (1) or more agricultural activities.
- *Agriculture Type I* means home-based agricultural activity focusing on raising livestock, food, etc. for noncommercial purposes.
- *Agriculture Type II* means farming, including plowing, tillage, cropping, use 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); sod production; orchards, tree farms and nurseries and the cultivation of products for commercial purposes.
- *Alley* means a minor or secondary way that is used primarily for vehicular service access to the back or side of a property or properties otherwise abutting a street.
- *Alley loaded unit* means an attached or detached single-family dwelling unit which has a garage that is accessed from an alley and not from a street.
- *Alteration* means any change, addition or modification in construction, occupancy, or use.
- *Amusement center*. See *Recreation facility, indoor*.
- *Amusement park* means an outdoor enterprise with the main purpose of providing the general public with recreational entertainment activities and where tickets are sold, or fees are collected for such activities. Examples of such recreational entertainment activities include but are not limited to miniature golf courses, outdoor arcades, Ferris wheels, children's rides, roller coasters, skateboard parks, go-cart tracks, water parks and similar uses.
- *Animal Boarding* 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.

- *Applicant* means the owner of land, the owner's authorized representative or the optionee of the land who is submitting an application for consideration and approval by the Town for annexation, subdivision, zoning, development, or other land use requiring approval.
- *Appurtenances* means the visible, functional, or ornamental objects subordinate to the use of property.
- *Aquifer recharge area* means an area where water is absorbed into a natural aquifer, adding to the zone of saturation.
- *Automotive repair, 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 activities are conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Automotive repair, 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 activities are conducted within a completely enclosed building. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *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.
- *Awning sign* means a wall sign that is painted, stitched, sewn, or stained onto the exterior of an awning.
- *Bar or tavern* means an establishment primarily 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.
- *Beacon, revolving* means a rotating source of light.
- *Bed and breakfast* means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee, and which is occupied by the operator of such establishment.
- *Bike trail* means a path or trail designed for use by bicyclists, which may be used by pedestrians.
- *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, waterway, or any barrier to the continuity of development, or land that is designated as a block on any recorded subdivision tract.
- *Boarding and rooming house* means a building or portion thereof that is used to accommodate, for compensation, two (2) 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 items of value.

- *Building* means any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is governed by the following characteristics:
 1. Is permanently affixed to the land.
 2. Has one (1) or more levels and a roof.
- *Building Code* means the set of standards that must be followed in the construction and remodeling of buildings and structures, as adopted by the Town in [Chapter 18](#) of the Town's Municipal Code.
- *Building Façade Lighting* means the lighting of a building facade for architectural, aesthetic, or decorative purposes.
- *Building frontage* means the horizontal, linear dimension of that side of a building that abuts a street, parking area, mall, or other circulation area open to the public and has either a main window display or a public entrance to the building.
- *Building height* means the vertical distance from the average curb elevation to the highest roof surface.
- *Building permit* means a document signed by the building administrator as a condition precedent to the commencement of the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building, which acknowledges that such structure complies with the provisions of this Code.
- *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.
- *Canopy sign* means a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, with columns extending from the ground or with a combination of a building and columns.
- *Cash-in-lieu* (also known as *fee-in-lieu*) means an amount of money to be paid by the applicant to the Town at the determination of the Town Council, instead of dedication or other requirements.
- *Cemetery* means land used or intended to be used for the burial of the dead.
- *Child care center* means a facility, by whatever name known, that is operated for the whole or part of a day for the care of five (5) or more children, who are eighteen years of age or younger and who are not related to the owner, operator, or manager thereof, whether the facility is operated with or without compensation for such care and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as child care centers, school-age child care centers, before- and after-school programs, kindergartens,

preschools, outdoor nature-based preschool programs, day camps, and summer camps, and includes those facilities for children under six (6) years of age with stated educational purposes operated in conjunction with a public, private, or parochial college or a private or parochial school; except that the term does not apply to any kindergarten maintained in connection with a public, private, or parochial elementary school system of at least six grades.

- *Cluster homes* means single-family homes formally Planned, constructed, and managed by an association for maintenance-free living in a park-like atmosphere with private, accessible natural areas and privacy being the dominant features. Land ownership is generally, but not exclusively, held in common ownership.
- *Common equestrian stabling* and *grazing* means shared pastures and/or common barns for horses that are owned and maintained by a homeowners' association.
- *Community facility* means a publicly owned facility or office building that is primarily intended to serve the recreational, educational, cultural, administrative or entertainment needs of the community as a whole.
- *Company vehicle* means a vehicle that is used solely for the purposes of the business. It is assumed that the vehicle will be parked at the proposed development during off-hours of the business. Company vehicles do not include semi-trucks or other large vehicles used for transportation of freight.
- *Compatibility* means the characteristics of different uses or activities or design that allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include but are not limited to, height, scale, mass, and bulk of structures. Other characteristics include but are not limited to pedestrian or vehicular traffic, circulation, access, and parking impacts. Additional factors that affect compatibility are landscaping, lighting, noise, odor, and architecture. *Compatibility* does not necessarily mean *the same as*; rather, *compatibility* refers to the ability of a development proposal to complement the character of existing development.
- *Comprehensive Plan* means the Plan that was most recently adopted by the Planning Commission and Town Council in accordance with Section 31-23-206, CRS to guide the future growth, protection, and development of the Town, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety, and general welfare of its population.
- *Condominium or condo* means a single dwelling unit in a multiple-unit structure, which is separately owned, and which may be combined with an undivided interest in the common areas and facilities of the property.
- *Conservation easement* means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational or open space use and protecting natural resources or maintaining air or water quality.

- *Convenience center* means a shopping and service center located in a complex that 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.
- *Convenience retail store* means a retail store containing less than five thousand (5,000) square feet of gross floor area that sells everyday goods and services, which, without limitation, may include ready-to-eat food products, groceries, over-the-counter drugs, and sundries.
- *Covenants* means a private written agreement between property owners outlining regulations specific to a development.
- *Critical Plant communities* means vegetation essential to the conservation of threatened or endangered species that may require special management considerations or protection.
- *Crosswalk* means a pathway marked off for pedestrians to cross a street.
- *Cul-de-sac* means a local street having only one (1) outlet and the other end for the reversal of traffic movement.
- *Cultural assets* means buildings, locations and other features considered by the Town as historically, culturally, or socially significant to the community.
- *Deck* means a roofless outdoor space built as an aboveground platform projecting from the wall of a building and connected by structural supports at grade or by the building structure.
- *Dedication* means any grant by a property owner of a right to use land for the public, involving a transfer of property rights and acceptance of the dedicated property by the appropriate public agency.
- *Density* means the overall average number of dwelling units located on the gross or net residential acreage (as applicable) contained within a 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 difference between the total acreage, less all publicly dedicated land.
- *Detention basin* means a human-made or natural water collection facility designed to collect surface and subsurface water in order to control its flow and release the same gradually at a rate not greater than that prior to the development of property into natural or human-made outlets.
- *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.
- *Development* means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land or the dividing of land into two (2) or more parcels. When appropriate in context, *development* shall also mean the act of developing or the result of development.

- Development shall include:
 1. Any construction, placement, reconstruction, alteration of the size or material change in the external appearance of a structure on land.
 2. 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.
 3. Any change in use of land or a building.
 4. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir, or wetland.
 5. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling, or excavation on a parcel of land.
 6. The demolition of a building.
 7. The clearing of land as an adjunct of construction.
 8. The deposit of refuse, solid or liquid waste or fill on a parcel of land.
 9. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property.
 10. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.
- Development shall not include:
 1. 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.
 2. 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 that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guideway mass transit depots or terminals or any similar traffic-generating activity.
 3. The maintenance, renewal, improvement, or alteration of any building if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure.
 4. The use of any land for an agricultural activity.
 5. A change in the ownership or form of ownership of any parcel or building.
 6. The creation or termination of rights of access, easements, covenants concerning development of land or other rights in land.

- *Development Plan* means the written and graphical documents that detail the provisions for development. A site-specific development is a type of development Plan. The provisions of a development Plan may include easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrian areas and parking facilities and common open space and other public facilities.
- *Duplex unit* means a two-family dwelling unit with each unit typically located on its' own lot. Each unit has direct access to the outside, and the units are attached to each other by party walls or a floor/ceiling with one (1) unit above the other.
- *Dwelling* means a building or portion thereof used for residential occupancy, including but not limited to single-family dwellings, two-family dwellings, and multi-family dwellings.
 - *Dwelling, multi-family* means a building or portion thereof designed to contain three (3) or more dwelling units. Each unit typically does not have direct access to the outside, and each unit is attached to another unit at one (1) or more party walls and at either the floor or the ceiling. Multi-family does not include single-family attached units such as townhomes and/or duplexes, nor does it include hotels, motels, and similar group accommodations.
 - *Dwelling, single-family* means a building designed to exclusively contain one (1) dwelling unit for occupancy by one (1) family but not including mobile homes, otherwise provided for herein.
 - *Dwelling, single-family attached* means a building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwellings as townhomes, duplexes, and zero-lot-line homes.
 - *Dwelling, single-family detached* means a single-family dwelling that is not attached to any other dwelling or building by any means, excluding mobile homes, otherwise provided for herein.
 - *Dwelling, two-family* means a building designed for and occupied by two (2) families living independently of each other.
- *Dwelling unit* means one (1) or more rooms, 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, located in a single-family, two-family, or multi-family dwelling or mixed-use building.
- *Easement* means a right to land commonly established by means of a real estate deed or agreement or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.
- *Eave* means the overhanging lower edge of a roof.

- *Elevation* means the external vertical Plane of a building. Building elevations are considered to be different if they have different roof lines, building materials, details, color, and overall stylistic expression.
- *Entertainment facility* and *theater* means a building or part of a building devoted to showing motion pictures or dramatic, musical, or live performances.
- *Environmentally sensitive areas* means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical Plant communities and ridgelines.
- *Family* means one (1) or more persons living together on the premises of a dwelling unit. The total number of persons living together shall not exceed the maximum number permitted by the current building and fire codes adopted by the Town of Severance, by any applicable state or federal law or regulation, or by any affordable housing guidelines applicable to the dwelling unit.
- *Family child care home* means a facility for child care a facility for child care operated with or without compensation or educational purposes 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 years who are not related to the head of such home. *Family child care 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 of the State Department of Social Services pursuant to Section 26.5-5-314(2)(n), C.R.S, and as amended.
- *Farm animals* means animals commonly raised or kept in an agricultural rather than urban environment, including but not limited to pigs, sheep, goats, horses, cattle, llamas, alpacas, emus, ostriches, donkeys, and mules. Also referred to as *livestock*.
- *Feedlot* means a tract of land or structure, pen, or corral, wherein farm animals, including but not limited to cattle, horses, sheep, goats, emus, ostriches, or swine, are maintained in close quarters for the purpose of fattening such farm animals for final shipment to market.
- *Floodplain* or *flood hazard area* means any area designated by the Federal Emergency Management Administration (FEMA) as a Special Flood Hazard Area with a one percent (1%) or more annual chance of flooding, or any area designated by the Colorado Water Conservation Board as susceptible to inundation by water from any source.
- *Flood-prone* means areas subject to flooding that have not been designated by the Colorado Water Conservancy Board or FEMA.
- *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 one (1) foot.
- *Floor area*, also called *gross floor area*, means the total square footage of the building measured along the outside walls of the building and including each floor level but not including exterior open balconies, garages or other enclosed automobile parking areas and basement storage areas and not including one-half (½) of all storage and display areas for durable goods.

- *Floor Area Ratio (FAR)* means the amount of gross floor area of all principal buildings on a lot or block, as the case may be, divided by the total area of such lot, or the block size, respectively, on which such buildings are located. For mixed-use blocks, the residential square footage shall be added to the commercial development for a total block FAR.
- *Footcandles* means one (1) lumen per square foot of site area. Primary measurement of illumination in the Town of Severance.
- *Footprint*, also called *ground level footprint*, means the outline of the total area that is covered by a building's perimeter at ground level.
- *Freestanding sign* means a sign that is supported by one (1) or more columns, uprights, poles, or braces extended from the ground or that is erected on the ground. These include monument signs and pole signs but do not include signs attached to structures.
- *Fully Shielded Fixture* means a fixture with a solid barrier (cap) at the top of the fixture in which the lamp (bulb) is located. The fixture is angled so the lamp is not visible below the barrier (i.e., no light visible below the horizontal angle).
- *Functional open space* means open space that is large enough to serve a practical purpose, such as recreation, wildlife habitat or preservation of areas of agricultural, archaeological, 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.
- *Gable* means the triangular portion of a wall enclosing the end of a pitched roof from the cornice or eaves to the ridge.
- *Garage, split* means a building with at least two (2) separate garages that are oriented in different directions.
- *Garage, tandem* means a garage that allows for the parking of one (1) car in front of another.
- *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, minor repairs, and carburetor cleaning, may be conducted. *Gasoline station* shall not include premises where heavy automobile maintenance activities, such as engine overhaul, automobile painting and body fender work, are conducted.
- *Grade* means:
 1. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and a property line or, when the property line is more than five (5) feet from the building, the lowest point of such finished surface elevation within the area between a building and a line five (5) feet from the building.
 2. The degree of rise or descent of a sloping surface.

- *Grade, natural* means the elevation of the ground surface in its natural state before human-made alterations.
- *Grocery store* means a retail establishment primarily selling food as well as other convenience and household goods, which occupies a space of at least five thousand (5,000) square feet but not more than twenty-five thousand (25,000) square feet. A large grocery store, greater than twenty-five thousand (25,000) square feet, is synonymous with *supermarket*.
- *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.
- *Group home* means a residence operated as a single dwelling, which is licensed by or operated by a government agency for the purpose of providing special care or rehabilitation due to age, physical condition or illness, mental condition or illness, social, behavioral or disciplinary problems, or homelessness provided that authorized supervisory personnel are present on the premises.
- *Guest house* means an accessory building that is physically detached from a single-family dwelling unit, is serviced through the same utility meters or connections as the principal use, is intended for temporary occupancy by visitors to the family residing in the single-family dwelling and has no cooking facilities.
- *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 and protection.
- *Home-based business* means any occupation, profession, activity, or use conducted within a residential dwelling unit that is clearly incidental and secondary to the use of a residential dwelling unit, which does not change the exterior of the property or affect the residential character of the area, and which meets the provisions of this thereof.
- *Illumination, direct* means lighting by means of an unshielded light source, including but not limited to neon tubing, which is effectively visible as a part of a sign where light travels directly from the source to the viewer's eye.
- *Illumination, indirect* means lighting by means of a light source directed at a reflecting surface in a way that illuminates a sign from the front or a light source that is primarily designed to illuminate an entire building facade upon which a sign is displayed. *Indirect illumination* does not include lighting that is primarily used for purposes other than sign illumination; e.g., parking lot lights or lights inside a building that may silhouette a window sign but are primarily installed to serve as inside illumination.
- *Illumination, internal* means lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs or that is within letters or designs that are themselves made of a translucent material.

- *Indoor recreation facility* means a place where recreation activities occur completely within an enclosed structure, including but not limited to bowling alleys, skating rinks, pool halls and video and pinball parlors.
- *Industrial, heavy* means uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, 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* also means 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 and container storage).
- *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* means 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, petrochemical industries, rubber refining, primary metal, or related industries.
- *Infrastructure* means improvements such as streets, water systems, wastewater and solid waste disposal systems, storm drainage systems, electric, gas or other utilities, bridges, roadways, trail systems and sidewalks, bus stops and so forth, which serve the common needs of the population and provide the basic framework for urban daily life.
- *Junkyard* means an industrial use contained within a building, structure or parcel of land or portion thereof that is used for collecting, storing, or selling wastepaper, rags, scrap metal or discarded material or for collecting, dismantling, storing, salvaging, or demolishing vehicles, machinery or other material and including the sale of such material or parts thereof.
- *Kennel* means a facility that is 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.
- *Landscaping* means any combination of living Plants, such as trees, shrubs, Plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains, or the like. *Landscaping* shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection, and replacement of existing trees.
- *Large retail establishment* means a retail establishment or any combination of retail establishments in a single building that occupies 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.

- *Laundry and dry-cleaning retail outlet* means a laundry or dry-cleaning business that consists primarily of serving retail customers, provided that any laundry and dry-cleaning processing that occurs on the premises is limited to items that are brought directly to the premises by the retail customer.
- *Light Trespass* means light that illuminates surfaces or that is visible beyond the property line of any lot.
- *Livestock*. See *Farm animals*.
- *Lodging establishment* means a building or guest room(s) within a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals.
- *Lot* means a designated parcel, tract or area of land established by plat or subdivision or otherwise permitted by law, occupied, or intended to be occupied by such uses and structures permitted under these rules and regulations together with required open spaces, and which has direct access onto a public or private street.
- *Lot area* means the total horizontal area within the boundary lines of a lot.
- *Lot depth* means the average distance between the front lot line and the rear lot line.
- *Lot, double frontage* means a lot that fronts on one (1) public street and backs onto another public street.
- *Lot, flag* means a lot shaped and designed so 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.
- *Lot line, front* means the property line dividing a lot from a street. On a corner lot, only one (1) line (the line with the shortest street frontage) shall be considered as a front line, and the line with the longer street frontage shall be considered a side lot line.
- *Lot line, rear* means the property line opposite the front lot line.
- *Lot line, side* means any property line other than the front lot line or rear lot line.
- *Lot, reverse corner* means a corner lot, the side lot line of which is substantially a continuation of the front lot line to the rear lot line.
- *Lot size* means the total horizontal area within the property lines of a lot; this is synonymous with *lot area*.
- *Lot width* means the distance parallel to the front lot line, measured at the front building setback line. *Lot width on a 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.
- *Lumen* means the unit of light measurement. Used in the Town of Severance for lighting that does not illuminate a surface (i.e., light that is projected upwards towards the sky).

- *Manufactured home* means a single-family dwelling that:
 1. Is partially or entirely manufactured in a factory.
 2. Is at least twenty-four (24) feet wide and thirty-six (36) feet long.
 3. Is permanently affixed to and installed on an engineered, permanent foundation.
 4. Has a pitched or cosmetically equivalent roof and brick, wood, wood composite, vinyl, metal, or stucco exterior siding.
 5. Complies with Housing and Urban Development (HUD) standards or standards of the adopted building Code, as applicable, or meets or exceeds equivalent requirements and performance engineering standards.
- *Manufacturing* means a business that makes products by hand or by machinery.
- *Maximum service capacity* means the maximum number of patrons that may visit a restaurant or similar establishment at any given time, as set by the fire department or other public safety entities.
- *Maximum Uniformity Ratio* means the ratio of maximum-to-minimum illumination levels. This is calculated by dividing the maximum light level by the minimum light level.
- *Mixed use* means the development of a lot, tract or parcel of land or building with two (2) or more different uses, including but not limited to residential, office, retail or public uses, personal service or entertainment uses that is designed, Planned, and constructed as a unit.
- *Mixed-use building* means a building designed, Planned, and constructed as a unit, used partially for residential use and partially for commercial uses, including but not limited to office, retail or public uses, personal service, or entertainment uses.
- *Mixed-use dwelling unit* means the dwelling unit in a mixed-use building. For purposes of calculating residential density, each mixed-use dwelling unit shall count as one-half (½) dwelling unit.
- *Mobile home* means a single-family dwelling unit partially or entirely manufactured in a factory, built on a permanent chassis, and designed to be transported on streets to the place where it is to be occupied as a dwelling unit. A mobile home shall conform to the following design and installation standards:
 1. Is not less than twelve (12) feet wide and thirty-six (36) feet long.
 2. Is partially or entirely manufactured in a factory.
 3. Is designed for longer-term residential use.
 4. Meets or exceeds, on an equivalent performance engineering basis, standards established by the Town's adopted building Code.
 5. Is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

- *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.
- *Motor vehicle service and repair*. See *Automotive repair*.
- *Natural area* means an area of land that may include one (1) or more floodplains and floodways, natural drainage and waterways, 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, prairie dog colonies over twenty-five (25) acres in size, remnant native prairie habitat, plains cottonwood galleries and any wetland greater than one-quarter (¼) acre in size.
- *Neighborhood commercial center* means an area containing businesses that are intended to provide goods and services to the immediate neighborhood (within a walkable radius).
- *Nightclub* means a bar or tavern containing more than one hundred (100) square feet of dance floor area.
- *Nonconforming building* means a building, structure, or portion thereof that does not conform to the regulations of this Chapter but was lawfully constructed under the regulations in force prior to adoption of this Chapter.
- *Nonconforming use* means a use that does not conform to the use regulations of this Chapter.
- *Off-street parking area* means all off-street areas and spaces designed, used, required or intended to be used for the parking, storage, maintenance, service, repair, display or 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.
- *Oil and gas operation* means any structure, facility or activity that is constructed on or disturbs land in association with oil or gas drilling, production or waste treatment and disposal, including but not limited to wells, tanks or tank batteries, pits, access roads for ingress and egress and pipelines.
- *Open space* means any land or water area with its surface open to the sky that serves specific uses of providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form, and protecting areas of agricultural, archaeological, 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.
- *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 uses or storage uses except on construction sites.

- *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 later subdivision or be conveyed to an owners' association.
- *Owners' association* means the association set up to enforce the covenants and maintain all common areas and buildings for a development. In the case of a residential development, such association may also be known as a *homeowners' association*.
- *Parcel* means a tract, lot, or plot of land.
- *Park* means a tract of land designated and used by the general public or membership (if privately owned) for active and passive recreation and education.
- *Parking lot* means an off-street parking area or vehicular use area.
- *Passive open space* means an open space area development primarily for leisure, relaxation, or the preservation of nature. These areas may include landscaped garden beds, wildlife habitats, native planting areas, or similar spaces within the community.
- *Patio home* means an attached or detached single-family dwelling unit that typically maxes out at one (1) or one and one-half (1.5) stories. Units tend to be much smaller in their overall footprint, lot size, and typically include narrower setbacks which result in lower maintenance costs.
- *Pedestrian accessway* means a facility used for on-foot travel by patrons, including without limitation, sidewalks, crosswalks, pathways, whether or not located in the right-of-way.
- *Pedestrian scale*, also known as *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, considering the perceptions, and walking speed of a typical pedestrian.
- *Phase* means a portion of property that is being platted and engineered for development at the same time.
- *Plat* means a map of certain described land giving form, detail and substance to a development Plan or site Plan and prepared in accordance with the requirements of this Code and Section 38-51-106, CRS, as an instrument for recording of real estate interests with the County Clerk and Recorder.
- *Playground zone area* means a designated safety area surrounding each item of playground equipment that must be kept free and clear of other structures, decorations, or similar devices.
- *Porch* means a roofed or otherwise covered projection from a main wall of a dwelling entrance and open on three (3) sides, except for wire screening. A porch shall not be considered open if enclosed by glazing.
- *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 currently being used to produce livestock and timber. It does not include land already in or committed to urban development or water storage.

- *Private property rights* means the rights of a property owner within the Town to use his or her property within the legal parameters set forth in this Code and subject to applicable local, state, and federal regulations.
- *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.
- *Proof of ownership* means ownership as specified in a current title insurance commitment, policy or certification of title issued by a title insurance company licensed to do business in the State.
- *Property* means all real property subject to development regulation by the Town.
- *Public areas* means streets, parks, open spaces and other property designated or described for public use on a map or plat of the Town for which fee title is vested in the Town, another public body or a special district as defined in Section 32-1-103, CRS.
- *Public hearing* means a meeting called by a public body for which public notice has been given and which is held in a place where the general public may attend to hear issues and express their opinions.
- *Public improvement* means any irrigation or drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, landscaped open space, off-street parking area, lot improvement or other facility that is intended for primary benefit to the public.
- *Public open space* means open space area conveyed or otherwise dedicated to the Town, county, state or other public body for recreational or conservation uses. Public open spaces are to be unencumbered by oil and gas operations, their appurtenances, or other hazards to the public.
- *Recreation facility, indoor* means a recreational land use that is conducted entirely within a building, with or without seating for spectators, and that provides accommodations for a variety of individual, organized or franchised events, including but not limited to arcade, arena, art gallery, art studio, art center, auditorium, athletic center, bowling alley, community center, exhibit hall, game center, gymnasium, library, museum, performance theater, skating rink, swimming pool, tennis court and support facilities.
- *Recreation facility, outdoor* means a recreational land use conducted in open or partially enclosed or screened facilities, including but not limited to athletic fields, driving ranges,

miniature golf, swimming pools, racquet courts, basketball courts, skate parks, bike parks, motorized model airplane facilities and motorized cart tracks.

- *Recycling facility* means a building or site used for the collection and/or processing of recyclable material. *Processing* means the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting or cleaning. Such a facility, if entirely enclosed within a building, shall be considered a warehouse.
- *Resource extraction, processes and sales* means removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged.
- *Restaurant, drive-through* means any establishment in which the principal business is the sale of food 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.
- *Restaurant, fast-food* means any establishment in which the principal business is the sale of food and beverages to the customer in a ready-to-consume state and in which the design or principal method of operation includes the following characteristics:
 1. Food and beverages are usually served in paper, plastic, or other disposable containers.
 2. The consumption of food and beverages is encouraged or permitted within the restaurant building, within a motor vehicle parked upon the premises, at other facilities on the premises outside the restaurant building or for carryout.
 3. The overall operation is intended to move the maximum number of customers in the minimum amount of time.
- *Restaurant, standard* means any establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, where fermented malt beverages and/or malt, special malt or vinous and spirituous liquors may be produced or served on the premises as an accessory use and where the design or principal method of operation includes one (1) or both of the following characteristics:
 1. Customers are served their food and/or beverages by a restaurant employee at the same table or counter where the items are consumed.
 2. Customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building.
- *Re-subdivide* means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the County Clerk and Recorder.
- *Retention basin* means a pond, pool or basin used for permanent storage of water runoff.
- *Ridgeline* means a line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

- *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 is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. 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.
- *Roadway* means that portion of the street between the regularly established curb lines.
- *Sanitary facilities* means amenities such as toilets, urinals, lavatories, showers, utility sinks and drinking fountains and the service buildings containing these units.
- *Sanitary waste station* means a facility used for removing and disposing of waste from self-contained camping vehicle sewage-holding tanks.
- *Septic system* means individual sewage disposal systems as defined by the Weld County Department of Public Health and Environment.
- *Service building* means a structure housing toilet, lavatory, bath, laundry, service sink and other such sanitary facilities as may be required.
- *Setback* means the required unoccupied open space between the nearest projection of a building or specific part thereof and the nearest property line of the lot on which the structure is located.
 - *Setback, front yard* means the distance a building or structure must be placed from the front lot line.
 - *Setback, rear yard* means the distance a building or structure, excluding an open deck, must be placed from the rear lot line.
 - *Setback, side yard* means the distance a building or structure must be placed from the side lot line.
- *Shared parking* means parking that is utilized by two (2) or more businesses in the immediate vicinity.
- *Shopping center* means a group of retail and service establishments located in a complex that is Planned, developed, owned, or managed as a unit with off-street parking provided on the property.
- *Short-term rental* means the rental offered for less than 30 consecutive days of any property or portion of a property that is available for lodging, whether a whole house, a private room or space in a house, or shared accommodations; except that the term excludes a hotel or motel unit.

- *Sight distance triangle* means the area at the four (4) corners of an intersection that is to be kept free of shrubs, groundcover, berms, fences, structures or other materials or items greater than thirty-six (36) inches in height. Trees shall not be Planted in the triangular area. The size of the sight distance triangles is determined as follows:
 1. At the intersection of any two (2) streets or where a street intersects with an alley, a triangle measuring thirty (30) feet along each curb or edge of roadway from its point of intersection, the third side being a diagonal line connecting the first two (2).
 2. At the intersection of a driveway or private access and a street, a triangle measuring fifteen (15) feet in length along the edge of the driveway and along the curb or edge of roadway from its point of intersection, the third side being a diagonal line connecting the first two (2).
- *Sign, window* means a sign that is painted on, applied to, or attached to a window or that can be read through the window from the public right-of-way.
- *Significant wildlife habitat and migration corridors* means areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.
- *Site Plan* means a scale drawing that shows proposed uses and structures for a parcel of land. Included are the actual measurements of lot lines, lot area, streets, private roadways, 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 and spaces, access points, landscaped area, setbacks from lot lines, building heights, floor areas, densities, utility locations and easements. A site plan is a more detailed representation of a proposed development than is shown on a plat and may also include statistical data as required.
- *Site-specific development Plan* means the final plat of a subdivision or final development Plan when approved by the Town Council pursuant to Article 4 of this Code.
- *Small animal Boarding*. See *Kennels*.
- *Small lot detached development* means a division or redivision of land to create single-family detached dwelling units in appropriately zoned property. Each unit is located on its own fee-simple lot, typically surrounded by common open space which is often managed by an association or similar entity.
- *Street furniture* means constructed objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to and used by the public.

- *Streetscape* means the distinguishing character of a particular street within 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.
- *Subdivision* means the division or re-division of land into one or more lots, tracts, or other parcels of land, or other division or re-division for the purpose, whether immediate or future, of transfer of ownership or sale of ownership of real estate or property. The term “subdivision” shall not apply to any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners or any other exemption granted in Section 30-28-101(10)(b), C.R.S.
- *Subsidence* means a local mass movement that involves the downward settling or sinking of the solid earth surface, commonly known as a sinkhole. Subsidence may be due to natural geologic processes or human activity such as mineral extraction.
- *Supermarket* means a retail establishment primarily selling food as well as other convenience and household goods, which occupies a space greater than twenty-five thousand (25,000) square feet.
- *Temporary use* means a prospective use intended for limited duration to be located in a zoning district that does not permit such use. Such use may not exceed one hundred eighty (180) days unless renewal, limited to one (1) time, is granted by the Town Council and the use does not involve the construction of any permanent structure. Temporary uses are regulated in this Code. A temporary use shall not include continuing a nonconforming use or building.
- *Title commitment* means a formal documentation from a title company, listing the name of the owner of the property, the legal description of the property and any items of public record affecting title to such property, including easements, secured interests, liens or other items, appurtenances, and encumbrances.
- *Town Council* means the governing Board of the Town.
- *Townhome unit* means a single-family attached dwelling of three (3) or more units but not more than six (6) dwelling units per structure. Each unit has direct access to the outside, and the units are attached to each other by party walls. No unit is located over another unit.
- *Tree lawn (tree way)* means a strip of landscaping within the right-of-way, generally between the roadway and adjacent sidewalk.
- *Trip* means a single or one-way vehicle movement to or from a property or study area. 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.
- *Unshielded Lighting* means lighting that does not have a barrier preventing horizontal or vertical light trespass. Such lighting shall only be used in the Town of Severance for security purposes or as otherwise specified in code.

- *Vehicle major repair, servicing and maintenance* means any building, land area, premises, or portion thereof where heavy maintenance activities, such as engine overhauls, automobile or truck painting, body or fender work, welding, or the like, are conducted. Such use shall not include the sale of fuel, gasoline, or petroleum products.
- *Vehicle minor repair, servicing and maintenance* means the use of any building, land area, premises, or portion thereof where light maintenance activities, such as engine tune-ups, lubrication, carburetor cleaning, brake repair, car washing, detailing, polishing or the like, are conducted.
- *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 and in accordance with Article 8 of this Code and other applicable laws, ordinances, or regulations.
- *Walkway* means a right-of-way dedicated to public use that is not within a street right-of-way, to facilitate pedestrian access through a subdivision block by means of a hard surface path or any portion of a parking lot area restricted to the exclusive use of pedestrian travel.
- *Warehouse and distribution* means a use engaged in storage, wholesale, and distribution of manufactured products, supplies or equipment, including accessory offices or showrooms or incidental retail sales but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions.
- *Warehousing* means a business storing or stocking merchandise or commodities.
- *Wireless communication equipment* means equipment used to provide wireless telecommunication service that is not affixed to or contained within a wireless communication facility but is instead affixed to or mounted on an existing building or structure that is used for some other purpose. *Wireless communication 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.
- *Wireless communication facility* means any freestanding facility, building, pole, tower, or structure used to provide only wireless communication services and that consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless communication services.
- *Wireless communication services* means services providing for the transmission of wireless communications utilizing frequencies authorized by the Federal Communications Commission for paging systems, enhanced specialized wireless communication, personal communication services or cellular telephones.
- *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, upholstery, restoration of antiques and other art objects or other similar uses.

- *Yard* means that portion of the open area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the zoning district in which the lot is located.
- *Yard, front* means a yard extending across the full width of the lot between a front lot line and the nearest line or point of a building.
- *Yard, rear* means a yard extending across the full width of a lot between the rear lot line and the nearest line or point of a building, not including an open deck.
- *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.
- *Zero lot line townhouse development* means the division of land to create single-family attached dwelling units, as defined in this Code, with common (or “party”) walls. Each unit is located on a lot in such a manner that one or more of the dwelling’s sides rests on a lot line. Each unit has its own entrance opening to the outdoors (to the street, alley, or private tract) and, typically, each house is a complete entity with its own utility connections. Although most townhouses have no side yards, they have front and rear yards. The land on which the townhouse is built, and any yard, is owned in fee simple.
- *Zoning district* means a designation of zoning category by the Town as set forth in this Code.
- *Zoning map* means the official map adopted by the Town, as amended from time to time, depicting the location of zoning districts throughout the area of property within the Town's municipal boundaries.

TOWN OF SEVERANCE, COLORADO
NOTICE OF PUBLIC HEARINGS

Notice is hereby given that the Planning Commission of the Town of Severance will hold two (2) Public Hearings, on **Wednesday, January 15, 2025, commencing at 6:00 p.m.**, or as soon as thereafter as each matter may be called, at the Town of Severance Town Hall, Council Chambers, 3 S. Timber Ridge Parkway, Severance, Colorado 80550. The purpose of each Public Hearing is to take testimony from the public on proposed amendments to the Town of Severance Land Use Code (Chapter 16 of the Severance Municipal Code), as follows:

1. Proposed text amendments to the Land Use Code for purposes of reorganizing Articles 1 and 2.
2. Proposed text amendments to the Land Use Code requiring two points of vehicular access for a subdivision.

No later than three (3) days prior to the Public Hearings date, all meeting materials and instructions for participation will be posted at <https://www.townofseverance.org> and available upon appointment at Severance Town Hall, 3 S. Timber Ridge Parkway, Severance, Colorado 80550, Tel. 970-686-1218. Written comments must be submitted to the Town no later than 5:00 pm on the day of the meeting to be considered by the Planning Commission. All written comments are to be sent to planning@townofseverance.org.

Any person may appear at the Public Hearings and be heard regarding the matters under consideration.

The Town of Severance Land Use Code (Chapter 16 of the Severance Municipal Code) is on file with the Town of Severance and available online at https://library.municode.com/co/severance/codes/municipal_code. For questions or comments contact:

Shani Porter
970-686-1218
planning@townofseverance.org

TOWN OF SEVERANCE, COLORADO
Sarah Jabobsen
Town Clerk



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
PUBLIC HEARING Resolution No. PC 2025-02R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Articles 2	Shani Porter, Planning Director	Shani Porter, Planning Director
ACTION REQUESTED		
Planning Staff ask that the Planning Commission review, discuss, and take action on Resolution PC-2025-02R and forward a recommendation to the Town Council on amendments to the Land Use Code regarding amendments to Article 1 of Chapter 16 "Land Use Code". Actions that may be taken: 1. Approve PC-2025-02R and forward a recommendation of approval to Town Council. 2. Deny Resolution PC-2025-02R 3. Take No Action.		<u>Resolution</u>
BRIEF SUMMARY		
Various amendments have been made to Section 16 of the Town of Severance Land Use Code over the last two years. The codification of these changes identified that the reorganization of Section 16 would be necessary for a user-friendly and cohesive implementation of the Land Use Code.		
PUBLIC SUPPORT/CONCERN		
None at this time		
ANALYSIS AND RECOMMENDATION		
Town staff is asking for the Planning Commission to review, discuss, and approve PC-2025-02R for the proposed amendments to the Land Use Code.		
MATERIALS SUBMITTED		
The following materials were submitted and included in this packet: 1. PC-2025-02R PC Recommend Approval Art 2 LUC Text Amendments 2. Exhibit A Article 2 - Procedures and Review Criteria redlines (01.2025) 3. Exhibit A Article 2 - Procedures and Review Criteria clean (01.2025) 4. PC Public Notice Land Use Code 1-15-25		

**TOWN OF SEVERANCE PLANNING COMMISSION
RESOLUTION NO. PC-2025-02R**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF
SEVERANCE, COLORADO, MAKING A RECOMMENDATION TO THE TOWN
COUNCIL TO APPROVE AMENDMENTS TO ARTICLE 2 OF CHAPTER 16, “LAND
USE CODE,” OF THE SEVERANCE MUNICIPAL CODE**

WHEREAS, in accordance with Section 16.19.120 of the Severance Municipal Code, Town staff may initiate amendments to the text of the regulations in Chapter 16, “Land Use Code,” of the Severance Municipal Code (“Code”); and

WHEREAS, Town staff has proposed amendments to Article 2 of the Land Use Code (the “Proposed Amendments”), in the form attached to this resolution as **Exhibit A** and incorporated herein by this reference; and

WHEREAS, in accordance with Section 16.19.120 and 16.19.10, the Planning Commission shall review text amendments to the Land Use Code at a public hearing; and

WHEREAS, on January 15, 2025, the Planning Commission held a duly noticed public hearing to consider the Proposed Amendments;¹ and

WHEREAS, after considering any public testimony at the public hearing and the presentation by Town staff, and after reviewing the Proposed Amendments according to the criteria in Section 16.19.120(b) of the Land Use Code, the Planning Commission desires to recommend the Town Council approve the Proposed Amendments as presented.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION
OF THE TOWN OF SEVERANCE, COLORADO, AS FOLLOWS:**

1. The Planning Commission recommends the Town Council approve the proposed amendments to Article 2 of Chapter 16, “Land Use Code,” of the Severance Municipal Code in substantially the same form attached to this resolution as **Exhibit A**.

RESOLVED AND APPROVED this ____ day of _____, 2025.

PLANNING COMMISSION OF THE
TOWN OF SEVERANCE, COLORADO

Julie Stout, Chair

¹ Notice of the Planning Commission’s public hearing on the Proposed Amendments was published on December 30, 2024, on the Town of Severance’s website, <https://www.townofseverance.org/256/Public-Notices>, in accordance with Section 16.19.40(b)(4) and Tables 19.10 and 19.40 in Article 19 of the Land Use Code.

ATTEST:

Sarah Jacobsen, Town Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, Town Attorney

Article 2 – Application Procedures and Review Criteria *(Article 19 “Review and Approval Procedures”)*

Division 1 – General Application Review Procedures

Section 16.2.110. ~~Procedures~~ Land use review proceduressummary *(Sec. 16.19.10)*

Applications and land use procedures shall be processed in accordance with Table 16.2.110 and this Article 2.

(a) Table of review procedures interpretation. The following list of terms are abbreviated, as listed here, within Table 16.2.110.

PC - Planning Commission

TC - Town Council

BOA - Board of Adjustments

X - Meeting or Action Required

O - Meeting or Action Required at the Direction of the Town

H - Public Hearing is Required

R - Review and Recommending Authority

D - Decision Making Authority

A - Appeal of Decision

Table 16.2.110 – ~~Land Use~~ Review Procedures Summary *(Table 19.10)*

TOS Land Use Code (2024-25 Reorganization)

Procedure	Eligible Applicants		Neighborhood Meeting	Pre-Application	Review Body				Record Plans	Notification Requirements (see Sec. 16.2.140)		
	Owner	TC			Staff	PC	TC	BOA		Mailed	Posted	Publication
Concept Review	X	X		X	R							
Annexation	X	X	X	X	R	H / R	H / D		X	X	X	X
Land Development Code (Text) Amendment		X			R	H / R	H / D					X
Comprehensive Plan Amendment	X	X	O	X	R	H / <u>DR</u>	<u>CD</u>			X (specific amend.)	<u>X</u> (specific amend.)	X
Major Subdivision – Preliminary Plat	X		X	X	R	H / R	H / D			X	X	
Major Subdivision – Final Plat	X		O	O	R		D		X	X	X	
Minor Subdivision	X	<u>X</u>		X	D			A	X			
Minor Plat Amendments	X	X		O	D			A	X			
Initial Zoning and Rezoning	X	X	X	X	R	H / R	H / D		X	X	X	X
Site Plan	X		O	X	R	R	D			O	O	
Use by Special Review	X		X	X	R	H / <u>DR</u>	<u>H / D</u>		O	X	X	<u>X</u>
Variance	X			X	R			H / D	O	X	X	X
Administrative Adjustments	X			X	D			A	With the formal plan			
Appeals	<u>X</u>	X						H / D				X
<u>ROW Dedication/Easement Vacation /-Dedication</u>	<u>X</u>	<u>X</u>		<u>O</u>	<u>R</u>		<u>D</u>		<u>X</u>	<u>O</u>		
<u>Easement Dedication ROW Vacation /-Dedication</u>	<u>X</u>	<u>X</u>		<u>O</u>	<u>R</u>		<u>D</u>		<u>X</u>	<u>O</u>		
<u>ROW Vacation</u>	<u>X</u>	<u>X</u>		<u>O</u>	<u>R</u>		<u>D</u>		<u>X</u>	<u>X</u>		<u>X</u> (Ordinance)
<u>Easement Vacation</u>	<u>X</u>	<u>X</u>		<u>O</u>	<u>R</u>		<u>D</u>		<u>X</u>	<u>X</u>		<u>X</u> (Ordinance)

PC = Planning Commission
TC = Town Council
BOA = Board of Adjustments

X = Required
O = At the Direction of the Town
H = Public Hearing

R = Review and Recommending Authority
D = Decision-Making Authority
C = Consent Agenda Item (consent approval / denial only)
A = Appeal of Decision

Section 16.2.120. General criteria for applications (Sec. 16.19.20)

(a) Eligible Applicants.

Unless otherwise specified in this Code, applications for review and approval may be initiated by the following entities.

1. The owner of the property that is the subject of the application; or
2. The owner's authorized agent; or
3. The Town Council acting on its' own initiative or through recommendations brought to it by staff or the Planning Commission; or
4. Other entities that have rights provided by law.

When an authorized agent files an application under this Code on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.

When a review or decision-making body initiates action pursuant to this Code, it does so without influencing the approval or denial of the application.

(b) Application Forms.

Applications required under this Code shall be submitted to the ~~Planning Department~~Town in a form and format specified by the ~~Department~~Town Manager or their designee. The ~~Department and Director are~~Town is authorized to establish submittal requirements and procedures to ensure all applications can be evaluated for conformance with this Code.

1. *Modification.* The ~~Director~~Town Manager or designee may waive or modify certain requirements for specific information at the time of application due to the routine nature of the application or due to the context of the application making the information inapplicable for review against the standards and criteria of this Code.
2. *Supplement.* The ~~Director~~Town Manager or designee may require further submittals or information, provided the request is required to evaluate compliance with this Code and/or adopted plans and policies.

(c) Development Review Fees.

1. Fees shall be paid in accordance with the adopted and published Town fee schedule. The fee schedule may be revised and adopted annually by resolution of the Town Council and is available for review at the Town.
2. Applicants shall submit fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters. Development review deposit fees will be charged to applicants for processing, reviewing, and administering applications such as but not limited to building permits, subdivision plats, rezoning requests, site plans, annexations, sign permits, variances, and all other administrative functions. In addition

to the standard fees, the applicant and the owner of the property that is the subject of the application shall be required to pay any actual costs and fees incurred by the Town for review of the application by consultants and staff, including but not limited to engineering, surveying, legal and planning. Such fees shall include the hourly cost for any contracted professionals engaged by the Town for review of the application.

- i. The Town may require a deposit from applicants to offset the Town's costs for review prior to consideration of any application submittal pursuant to this Code. The Town shall not continue the processing of any application for which the applicant or the property owner has refused to deposit the funds to cover the Town's cost of review.

(d) Concurrent Applications.

~~Multiple applications cannot be consolidated into one (1) application; however, W~~when a project requires approvals under more than one type of application, the ~~Director-Town Manager~~ or designee may determine that each application may be submitted and reviewed concurrently based on the similarity of information needed and interrelationship between the applications.

1. Subdivision and Site Plan applications may be processed concurrently with annexation and initial zoning applications; however, such applications shall only be given final approval after annexation and initial zoning of the subject property are effective.
2. Site Plans shall only be given final approval after a final plat approval is granted.

(e) Withdrawal of an Application.

1. The applicant may request to withdraw their application. Such request shall be in writing, either digital or print. Annexation applications with an approved resolution initiating annexation proceedings may only be withdrawn subject to approval by the Town Council.
2. After withdrawal, the Town will take no further action on the application.
3. The applicant may resubmit an application which shall be treated as a new application for purposes of review, scheduling, and payment of the application fees.
4. A request for withdrawal of an application from a noticed agenda is subject to the discretion of the decision-making body.

(f) Inactive Application.

If the applicant fails to submit requested application materials within one hundred eighty (180) days of the request, the application shall become void, and the re-submittal of a new application and fees shall be required. The Town Manager may grant no more than two (2) extensions of time to this provision, of no more than six (6) months each, upon a written request by the applicant.

(g) Lapse of Approvals.

Approvals of land use applications shall be null and void and shall automatically lapse if not completed or recorded within the approval time frames established by the procedures of this Code. A lapse of approval is different from vesting as established in §statute and specified in Division 2 of Article 1 of this Code. If applicable, the lapse of approval time frames established by the procedures of this Code may be extended only when all of the following conditions exist:

1. The provisions of this Code must expressly allow the extension;
2. An extension request must be filed prior to the applicable lapse-of-approval deadline;
3. The extension request must be in writing and include justification; and
4. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.

Section 16.2.130. Application steps *(Sec. 16.19.30)*

This section is intended to outline typical development review steps administered by the Planning DepartmentTown for both administrative review and public hearing review applications, as identified in Table 16.2.110 under Procedures SummaryLand Use Review Procedures. This information is not intended to reflect review timeframes or unique aspects of every application, including but not limited to the number of reviews required, situations beyond the Town's control, or individual approval requirements.

(a) Public hearing decision.

The typical workflow for processing an application with public hearings is as follows:

1. Pre-application conference, required unless waived by Town Manager or designee.
2. Concept review by the Town, as requested by the Town or applicant.
3. Formal application submittal and completeness review by the Town.
4. Development application review by the Town.
5. Neighborhood meeting managed by applicant, required unless waived by Town Manager or designee.
6. Application is revised and resubmitted by the applicant and reviewed by the Town.
7. Planning Commission action or recommendation.
8. Town Council action.
9. Recording of approved document(s), if applicable.

(b) Administrative decision.

The typical workflow for processing an administrative application is as follows:

1. Pre-application conference, required unless waived by the Town Manager or designee.
2. Concept review by the Town, as requested by the Town or applicant.
3. Formal application submittal and completeness review by the Town.
4. Development application review by the Town.
5. Neighborhood meeting managed by the applicant, required unless waived by the Town Manager or designee.
6. Application is revised and resubmitted by the applicant and reviewed by the Town.
7. Town Manager or designee action, including any necessary official document recording.
- 1-8. Recording of approved document(s), if applicable.

Figure 16.2.130a: Public Hearing Application Types

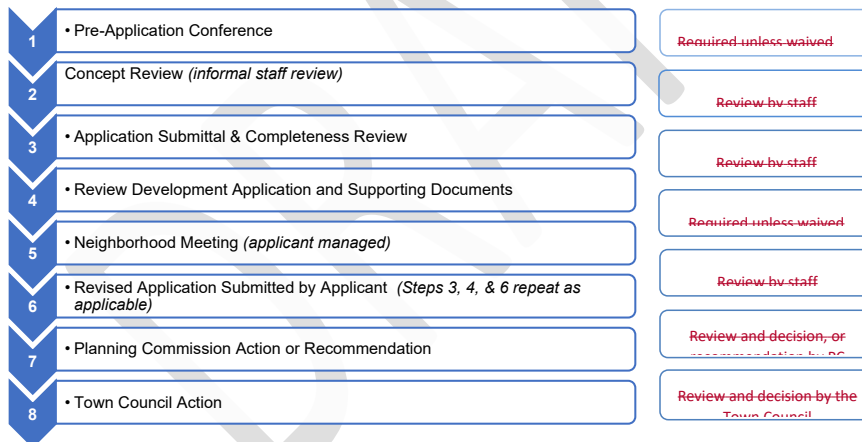


Figure 16.2.130b: Administrative Application Types

1	• Pre-Application Conference	As directed by staff
2	Concept Review	Review by staff
3	• Application Submittal & 5 Completeness Review	Review by staff
4	• Review Development Application and Supporting Documents	As directed by staff
5	• Neighborhood Meeting (<i>applicant managed</i>)	Review by staff and
6	• Revised Application Submitted by Applicant (<i>Steps 2, 3, and 5 repeat as applicable</i>)	Action by manager
7	• Town Manager Action	

(c) Step 1: Pre-Application Conference.

This step ~~(which may also be referred to as a concept review meeting, a concept plan, or pre-application review)~~ provides ~~an opportunity for~~ an informal evaluation of the applicant's proposal and ~~provides an opportunity~~ to familiarize the applicant and ~~Town Staff~~ the Town with the applicable provisions of this Code, the Town's Comprehensive Plan, and other documents as may be appropriate, including the Town's corridor plans, infrastructure requirements, and any other issues that may affect the applicant's proposal. This step is required for most application types and may be waived by the Town Manager or designee depending on the unique characteristics of the development proposal. When required, the applicant shall submit the information required in accordance with the application and submittal requirements maintained by the Town.

1. The applicant shall submit a request on a form or in a manner approved by the Town. Staff will coordinate a meeting with the applicant once all requested items have been submitted for the discussion.
2. The meeting is an informal discussion of the preliminary development proposal with Town Staff. The application shall submit the required information to facilitate discussion on the following topics:
 - i. How the proposal meets the goals of the Comprehensive Plan, or other adopted plans or policies related to the application.
 - ii. The proposed use(s), general site layout, conceptual or anticipated design of the structure(s), and how the project relates to surrounding sites and public spaces.
 - iii. How the project will contribute to the area and further the intent of the existing or proposed zoning district.

- iv. ~~The~~ How the project addresses the development applicable review processes and review criteria for the proposed development.
 - v. Impacts to infrastructure planning including timing, phasing, or the need for any technical studies or outside agency coordination and review.
 - vi. Necessary public improvements as part of the proposal including but not limited to public and private utilities, sidewalks and/or trails, road improvements, parks, landscaping, or other improvements warranted by the development.
 - vii. Opportunities to improve designs, layout, and overall function to meet Town goals and policies.
3. ~~Informal evaluation not binding.~~ The informal evaluation provided at the conference is not binding upon the applicant or the Town but is intended to serve as a guide to the applicant in making the development application and advising the applicant in advance of the development application of issues which may be presented to the appropriate decision-making body.
 4. ~~Application required within six (6) months.~~ After a pre-application conference has been held, an application must be submitted within six (6) months. If an application is not filed within such a timeframe, a new pre-application conference shall be required prior to filing an application, unless waived by the Town Manager or designee.

(d) Step 2: Concept Review.

For a fee, at the request of the Town or an applicant, any applicant may opt to have a more thorough technical review of a proposed land use concept beyond the pre-application conference review. The informal evaluation provided through a concept review is not binding upon the applicant or the Town but is intended to identify major problems which must be resolved, to assess the overall feasibility of the proposal, or to provide additional guidance to the applicant in preparing the development application of issues that may be presented to the appropriate decision-making body. The applicant will be responsible for reimbursing the Town for consultant fees incurred by the Town for such review. Reimbursement must be made as a condition of further review or acceptance of an application (Step 3).

(e) Steps 3 and 4: Application Submittal and Review.

Upon receipt of a development application and payment of the required fee, the Town shall take the following steps:

- 5.1. Completeness Review. The Town shall determine if an application is complete. An application shall be considered complete if it is submitted in the required form, includes all submittal information specified by the Town Manager or designee, and is accompanied by the applicable application fee(s).

- i. If an application is deemed complete, it shall be processed for formal review.
- ii. If an application is determined to be incomplete, the Town shall notify the applicant of the deficiencies. No further processing or review of the application will occur until the deficiencies are corrected as requested and the application is re-submitted.

6.2. Additional information. Town Staff may require additional application-specific information, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Code.

7.3. Referral review. After determining that a development application is complete, Staff shall distribute the submittal to designated referral agencies for the opportunity to review and comment on an application. Referral agencies include but are not limited to adjacent or other local governments; state agencies; public and private utility providers; ditch companies; school districts; and other special districts such as the fire district. Referral agencies shall provide comments to Town Staff on the application(s) within thirty (30) days of receiving a referral packet, unless otherwise specified by Town Staff in the referral announcement. The applicant is encouraged to meet with referral agencies prior to the end of the referral period. The applicant is required to pay fees assessed by referral agencies.

8.4. Staff Review and Comments. The Town shall coordinate a staff review and may provide the applicant the following information in writing:

- i. Comments or recommended change(s) based on the review of referral agencies, staff, and comments from any neighborhood meeting(s).
- ii. Supplemental information required to support the application, ~~and~~ address comments or the recommended changes.

9.5. Resolution of issues. Staff shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with written responses addressing all referral and staff comment issues. At the discretion of the Town Manager ~~or designee~~, referral comments requiring significant changes to a development application, plan, or proposal may require re-referral to ~~any and all~~ referral agencies.

(f) Step 45: Neighborhood Meeting.

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the developer intends to meet the standards contained in

this Code, and to receive public comment and encourage dialogue at an early stage in the review process. Attendance at the meeting by Town Staff is not required.

1. A neighborhood meeting may be required:

- i. In accordance with Table 16.2.110 - Land Use Review Procedures; or
- ii. During the review of an application, the Town Manager or designee may require an additional neighborhood meeting in situations where:
 - A. The characteristics of the project are complex and present the potential for significant changes and unanticipated impacts on nearby or adjacent property; or;
 - B. The proposal is likely to raise questions or concerns from adjacent property owners, beyond the typical allowances under the zoning district and/or the adopted plans or policies.

2. Neighborhood meeting procedure.

- i. Timing. In general most cases, the Neighborhood Meeting should occur after the applicant has received the first round of referral responses as outlined in this Code, unless otherwise directed by the Town Manager or designee.
- i.ii. Responsibility. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed.
- iii. Notice. The applicant shall post notice on the property and send mailed notice of the neighborhood meeting to property owners. The applicant shall submit an affidavit to the Town affirming that the notice requirement has been met.
- iv. The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the developer intends to meet the standards contained in this Code, and to receive public comment and encourage dialogue at an early step in the review process. No decision regarding the application will be made at the neighborhood meeting. Summary. A neighborhood meeting may be required as indicated in Table 16.2.110 under Procedures Summary. The applicant shall give mailed and posted notice of the neighborhood meeting to property owners, pursuant to the Notification Requirements found in Section 16.2.140 of this Code. An affidavit shall be submitted to the Town, by the applicant, stating that the notice requirement has been met. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed. Attendance at the meeting by Town Staff is not required. The applicant shall prepare a written summary of the

neighborhood meeting, including a list of attendees, ~~of the neighborhood meeting~~meeting notes, and a list of comments from the public. The written summary shall be provided to Town Staff prior to ~~noticing of any Public Hearing~~the next steps in the review process and ~~shall be~~ included in the case record.

3. No Determination. No official determination or decision regarding the application will be made at the neighborhood meeting.

10. During the review of an application, the Manager may require an additional neighborhood meeting where:

11. The characteristics of the project are complex and present the potential for significant changes and unanticipated impacts on nearby or adjacent property.

12. The proposal is likely to raise questions or concerns from adjacent property owners, beyond the typical allowances under the zoning district and/or the adopted plans or policies.

(g) Step 6: Applicant Resubmits Revised Plans and Supporting Documents.

Following the initial review by the Town and referral agencies and completion of a neighborhood meeting, as applicable, the applicant is responsible for resubmitting revised plans and supporting documents that address comments received ~~by from~~ the Town and referral agencies.

13.1. If the applicant chooses not to address any specific comment(s) or recommended change(s), a written explanation shall be included with the resubmittal that demonstrates a good faith effort to address the issue or justify why the comment was not addressed.

14.2. Failure to address any comment or recommended change without explanation may be grounds for rejection of the revised application resubmittal.

15.3. Steps 3, 4, and 6 repeat until the application is deemed ready for the next step in the process by the Town Manager or designee.

(h) Step 7 (Administrative): Town Manager or Designee Action.

For administrative applications, after consideration of the development application, the staff comments, and comments received from other reviewers (if applicable), the Town Manager or designee shall approve, approve with conditions, or deny the application based on its² compliance with the applicable approval criteria.

(i) Step 7 (Public Hearing): Planning Commission Recommendation or Action.

For public hearing applications, the Planning Commission may serve in the following two capacities:

- 16.1. As a recommending body that reviews the ~~proposal application~~ against the criteria of this Code, adopted plans and policies, and the recommendation of professional staff, and provides a recommendation to the Town Council ~~of for~~ approval, ~~denial, or~~ approval with conditions, ~~or denial of the application~~.
- 17.2. As a deciding body that reviews the ~~proposal application~~ against the criteria of this Code, adopted plans and policies, and the recommendation of professional staff, and makes a final decision ~~on a proposal~~ to either approve, ~~deny, or~~ approve with conditions, ~~or deny an application~~.

(h)(i) Step 8 (public hearing): Town Council Action.

For public hearing applications, the Town Council serves as the decision body for certain applications, as specified on **Table 16.2.110**. Following review of the proposal against the criteria of this Code, adopted plans and policies, and the recommendation of the Planning Commission (if applicable) and professional staff, the Town Council may approve, ~~deny,~~ approve with conditions, ~~or deny the application,~~ or refer the application back to the Planning Commission for further review.

Section 16.2.140. Public hearing and notification requirements (Sec. 16.19.40)*(a) Public Hearing(s).*

Public hearing(s) ~~(hearings)~~, if required under this Code, shall be conducted according to the following procedures:

1. A hearing shall be scheduled within a reasonable time as allowed by the schedules of the Town Officials and Staff. The Town Manager or ~~designee Staff, as delegated, are is~~ responsible for the scheduling of all public hearings.
2. ~~Subject to Paragraph 3 that follows, the The~~ hearing shall be open to the public and any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name, address and, if appearing on behalf of a person or organization, the name and mailing address of the person or organization being represented. The decision-maker conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious.
3. Continuance of Public Hearing. The ~~decision-makerbody~~ conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to

a fixed date, time, and place. All continuances shall be granted at the discretion of the body conducting the public hearing.

4. Record. An audio recording shall be made of all hearings, and transcripts of such hearings may be requested within thirty (30) calendar days of the close of the hearing. Transcripts shall be provided within a reasonable time after deposit of the cost of the preparation of the transcript with the Town.
5. Modification of application at hearing.
 - i. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Council, Planning Commission, or Board of Adjustment (BOA), the applicant may agree to modify his or her application, including the Plans and specifications submitted.
 - ii. Unless such modifications are so substantial or extensive as to materially change the Plans, the hearing body may approve the application with the stipulation that the permit will not be issued until Plans reflecting the agreed-upon changes are submitted to the Town for review and approval as an administrative act.

(b) Notice Requirements.

Notice shall be provided for each application as indicated in Table 16.2.110 and detailed below in Table 16.2.140 below. The applicant shall be responsible for all costs of such notices.

1. Annexations. Annexation notifications shall be completed in accordance with the Municipal Annexation Act, statute, see C.R.S. Sections 31-12-101 et seq., C.R.S., as may be amended.
2. Mailed Notice Requirements. Where mailed notice is required under this Code, the following requirements shall be met:
 - i. Content. The mailed notice shall include a description of the proposal; the location of the meeting or hearing; the date, time, and location of the meeting or hearing; and information regarding public comment.
 - ii. Mailing List. Where required by statute or this chapterCode, the mailed notice shall be sent to the following groups:
 - A. All record landowners within one thousand (1,000) feet of the outer boundary of the land subject to the application no later than fifteen (15) calendar days before the hearing (unless otherwise specified by state statute or the Town Manager or their designee).
 - B. To other interested property owners, such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies no later than fifteen (15) calendar days before the hearing (unless otherwise specified by state statute or the Town Manager or their designee).

- C. To other parties of interest or referral agencies as determined by the Town Manager or their designee no later than fifteen (15) calendar days before the hearing (unless otherwise specified by state statute).
- iii. Affidavit of Compliance. ~~A-The applicant shall submit a~~ notarized affidavit ~~of the applicant's affirming~~ compliance with the mailed notice requirements ~~shall be provided~~ to the ~~Director-Town~~ prior to the meeting or public hearing to which the notice relates. Failure to provide the affidavit for a public hearing shall result in continuation of the public hearing.
- iv. Surface Development Notification. Notices shall be mailed to the mineral estate owner no later than required by state statute, see C.R.S. § 24-65.5-103.
3. *Posted.* If notice by posting of the property is required by statute or this ~~chapter~~Code, such notice shall occur by prominently posting signs on the property that is the subject of the proposed action. Such signs shall be posted no less than fifteen (15) calendar days prior to the hearing (unless otherwise specified by state statute) and shall be easily legible from the nearest public streets. The sign shall be in the format available from the Town.
- i. Affidavit of Compliance. ~~If posting was done by the applicant, the applicant shall provide (prior to the hearing) submit a notarized An affidavit showing affirming that the property was posted within the specified time, and a photograph of the posting on the property, shall be provided as required by the Town.~~
- ii. When ~~an~~ applicant has made all reasonable and good faith efforts to maintain posted notice, failure of ~~this the~~ posted notice will not be grounds to invalidate the application.
4. *Published.* The Town Clerk shall give notice of any public hearing required as follows:
- i. ~~Unless otherwise specified in this Code or as required by state statute or other applicable law, Notice notice~~ shall be given to potentially interested persons ~~not less than fifteen (15) calendar days prior to the hearing~~ by ~~means of~~ either publishing a notice one (1) time in a newspaper of general circulation in the ~~area Town, or on the Town's official website or other publicly accessible website designated by the Town for the publication of legal notices, on a publicly accessible website or on a page which shall be~~ accessible through a direct link from the homepage, conspicuously placed, ~~not less than fifteen (15) calendar days prior to the hearing. A publicly accessible website means the Town's official website or other private website designated by the Town for the publication of legal notices that is accessible via the Internet.~~
- ii. ~~This-The~~ notice shall state the date, time, and place of the hearing, identify the lot, parcel, or property that is the subject of the application or appeal, and give

Commented [MLM1]: Reword - Town posts notice and prepares affidavit.

a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

Table 16-2-140. Notification Timeframes and Requirements

(See [Table 16.2.110 – Review Procedures](#) [Land Use Review Procedures](#) for additional information)

The following list of terms are abbreviated, as listed here, within Table 16.2.140.

[PC - Planning Commission](#)

[TC - Town Council](#)

[BOA - Board of Adjustments](#)

[PH - Public Hearing](#)

Application Type	Meeting Type	Mailed Notice	Posted Sign	Publication
Annexation	PC (H) TC to set date TC (H) annexation	Owners within 1,000 feet; 15 calendar days prior to PC hearing	15 calendar days prior to PC hearing	Once a week for four (4) consecutive weeks in a newspaper of general circulation ; 30 days prior to statutory hearing, per Sec. 31-12-108(2), C.R.S.
Land Development Code (Text) Amendment	PC (H) TC (H)	Not required	Not required	15 calendar days prior to hearing
Comprehensive Plan Amendment	PC (H) TC	Each government-governing body of territory affected; 15 calendar days prior to hearing	Periodic update : Not required. Specific amendment : 15 calendar days prior to hearing .	15 calendar days prior to hearing
Major Subdivision Preliminary Plat	PC (H) TC (H) PC hearing per Sec. 31-23-215, C.R.S.	Owners within 1,000 feet; 15 calendar days prior to PC hearing	15 calendar days prior to PC hearing	Not required
Major Subdivision Final Plat	TC	Owners within 1,000 feet; 15 calendar days prior to meeting	15 calendar days prior to meeting	Not required
Initial Zoning and Rezoning	PC (H) TC (H)	Owners within 1,000 feet; 15 calendar days prior to hearing	15 calendar days prior to hearing	15 calendar days prior to hearing
Use by Special Review	PC (H) TC (H)	Owners within 500 feet (up to 1,000 feet per Town Manager); 15 calendar days prior to hearing	15 calendar days prior to hearing	15 calendar days prior to hearing
Variance	BOA (H)	Owners within 300 feet (up to 1,000 feet per Manager); 15 calendar days prior to hearing	15 calendar days prior to hearing	15 calendar days prior to hearing
Appeals	BOA (H)	Not required	Not required	15 calendar days prior to hearing
ROW Vacation/ Dedication	TC	Owners of property abutting right-of-way Not required	Not required	15 calendar days prior to meeting hearing

Easement Vacation	TC	Owners of property abutting easement	Not required	15 calendar days prior to hearing
ROW Dedication	TC	Not required	Not required	Not required
Easement Dedication	TC	Not required	Not required	Not required

PC = Planning Commission
 TC = Town Council
 BOA = Board of Adjustments
 (H) = Public Hearing

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Division 2 – Review Process for All Application Types

Section 16.2.200. Comprehensive plan amendments

(a) Purpose.

An amendment to the Town’s official comprehensive plan may include any of the following:

1. Specific amendment.

- i. Comprehensive plan text amendment. An amendment to the text of the plan.
 - ii. Comprehensive plan land use amendment. An amendment to the plan’s land use designation for specific properties or transportation system as referenced in the plan. A land use amendment may be necessary in conjunction with rezoning requests and occasionally with annexation requests. A comprehensive plan amendment may be processed concurrently with a related development application at the direction of the Town Manager or their designee.
2. Periodic update to comprehensive plan. An amendment to make periodic updates to the comprehensive plan’s land use designations, plan framework, plan policies, growth management area, or other major updates to the comprehensive plan, or the adoption of a new or restated comprehensive plan.

(b) Submittal Requirements.

1. Requests for a specific amendment may only be presented by the owner of the real property that is the subject of the requested amendment or the owner’s designated representative, Town staff, the Planning Commission, or the Town Council. Requests for periodic updates may be submitted by Town staff, the Planning Commission, or the Town Council.
2. The owner of real property that is the subject of a specific amendment, or the owner’s designated representative, shall submit an application and fee.
3. Proposed text amendment, if applicable.
4. Proposed land use amendment, including proposed map amendment, if applicable.
5. Narrative justifying the request for the comprehensive plan amendment and addressing the review criteria in this section.

(c) Review Criteria.

When considering a specific amendment or periodic update to the comprehensive plan, the Town requires an applicant to evaluate and provide justification for the following minimum criteria. Additional criteria based on the unique characteristics of a request may be required by the Town.

1. The proposed amendment is consistent with the vision, intent, and applicable policies of the comprehensive plan and other adopted plans, policies, and guidelines.
2. The proposed amendment serves a public purpose and will not be substantially detrimental to the surrounding lands.
3. The proposed amendment takes into account the nature and degree of impacts on neighboring lands and takes mitigation measures based on industry best practices and protection of public health, safety, and welfare.
4. The proposed amendment takes into account the nature and degree of impacts on the Town's existing and planned infrastructure and addresses mitigation measures that address public health, safety, and welfare of the Town and its inhabitants.
5. The proposed amendment is necessary to address substantially changed conditions since adoption.
6. The proposed amendment furthers an important policy adopted by the Town.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements apply to requests for specific amendments or periodic updates to the comprehensive plan:

1. Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule a review of the amendment request by the Planning Commission during a public hearing.
2. The Town shall provide written notice of the Planning Commission public hearing at which the proposed amendment to comprehensive plan is to be considered and a copy of the proposed amendment to Weld County and to any county or municipality that is located within three miles of any boundary of the Town, in accordance with C.R.S. § 24-32-3209(2)(a), as amended. Such neighboring jurisdictions may review the proposed amendment and submit comments to the Town prior to the hearing on such amendment by the Planning Commission.
3. The Planning Commission shall hold a public hearing and adopt a resolution by the affirmative vote of a majority of the entire membership of the Planning Commission recommending that the Town Council approve, approve with conditions, or disapprove the proposed amendment.
4. After receipt of the recommendation of the Planning Commission, the Town Council shall approve, approve with conditions, or disapprove the proposed amendment by resolution.

(e) Effect of Decision.

Upon approval of the comprehensive plan amendment by the Town Council, the Town shall cause an appropriate revision of the official comprehensive plan document and associated maps

Commented [MLM2]: See C.R.S. § 31-23-206(1.3)(a) and (b), and C.R.S. § 24-32-3209(1)(a) (definition of "comprehensive plan" includes amendments to the plan) and (2)(a) and (b) requiring written notice to "neighboring jurisdictions" (defined in C.R.S. § 24-32-3209(1)(h)) of planning commission public hearing on comp plan amendments, and providing that comments and objections to proposed amendments may be submitted by neighboring jurisdictions to the Town.

to be prepared. If the applicant initiated the request, the applicant shall pay the Town's cost for the preparation of the revision to the comprehensive plan and associated maps. The Town shall make a copy of the updated comprehensive plan, along with any maps and descriptive text, available at Town Hall during regular business hours. The Town Manager or their designee shall arrange for the filing of the same with the Division of Local Government in the Colorado Department of Local Affairs.

Commented [MLM3]: 1. See C.R.S. § 31-23-206(8) for the requirement that the Town shall submit the comp plan (and approved amendments) to the DLG in DOLA.

2. Staff is correct that state law does not require the Comprehensive Plan or an amendment to be recorded with the County Clerk and Recorder. I removed that provision from this section.

Section 16.2.205. Land development code (text) amendments (Sec. 16.19.120)

(a) Purpose.

The Town Council, Planning Commission, or Town staff may initiate amendments to the text of these regulations. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description thereof, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.

(b) Review Criteria.

A text amendment shall be reviewed according to the following criteria.

1. The amendment furthers the purposes of the Code.
2. The amendment improves the efficiency and effectiveness of administering the Code.
3. The amendment is consistent with the Comprehensive Plan and other adopted plans and/or policies.
4. The amendment incorporates innovations in land use and development practices that were not envisioned at the time the Code was written.
5. The amendment promotes the public health, safety, and welfare of the Town's residents.

(c) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to text amendment requests:

1. Requests may run concurrently with a related Comprehensive Plan or other adopted plan amendment if the amendment or plan has met the legal and policy requirements for approvals independently of the proposed code amendment.

2. Amendments require the recommendation of the Planning Commission to the Town Council.
3. The Town Council may ~~recommend~~ refer the request ~~be returned back~~ to the Planning Commission for further review or request additional information prior to acting on the request.

(d) Effect of Decision.

Amendments to the text of this Code shall be approved by the Town Council as an ordinance and be effective after the date specified in the ordinance. The Town shall incorporate the approved amendments into this Code.

(e) Annual Review.

Town staff may provide a summary report of any formal issues, concerns, or suggested updates regarding this Code to the Planning Commission for review and consideration on an annual basis or as needed. The Planning Commission may direct action, additional research, or investigation into elements of this Code that may need modified. The intent of the annual review is to provide an opportunity to keep the Code current and ensure its viability and responsiveness over time.

Section 16.2.210. Annexation (Sec. 16.19.50)

(a) Purpose.

Annexation is a discretionary, legislative act. Accordingly, the town shall never be compelled to annex, unless otherwise required by state law, even if all annexation requirements have been satisfied. The purpose of this Section is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Municipal Annexation Act of 1965, Sections 31-12-101 et seq., C.R.S. (hereafter referred to as "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 this Code. In the event of a conflict between the Act, the provisions of this Section, or any requirements set forth in other portions of this Code, it is the expressed intent of the Town Council that the more stringent provision shall control.

(b) Submittal requirements.

An annexation application is necessary for the Town to evaluate the impacts on the Town of annexing the property identified in the application and negotiating an annexation agreement. Application. The applicant shall submit a letter of intent, application form, annexation plat, related fees, and supporting documents that may include plans, reports, and studies provided by the applicant consistent with the application checklist requirements available through the Town and as discussed during the pre-application conference. An incomplete submission shall not be processed nor referred to the Town Council for a determination of substantial compliance. The annexation application shall include the following minimum requirements.

1. A complete land use application form and checklist with appropriate fees paid.
2. The written letter of intent shall serve as a cover letter to the formal petition, introducing the applicant to the Town Council, requesting annexation of the petitioner's property and describing the development plans for the property if it is annexed.
3. The applicant shall submit a petition for annexation that complies with the requirements of Section 31-12-107, C.R.S. The Town will provide the applicant with the standard form of this petition.
4. The annexation plat drawing shall comply with the technical drawing requirements of the Town. The plat shall be accompanied by a metes and bounds legal description of the property.
5. The applicant shall submit proof of ownership in the form of a current ownership and encumbrances report issued by a title insurance company licensed by the State, whose effective date shall be less than thirty (30) days prior to the date of submittal of the annexation petition. Ownership must match the ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned because of road rights-of-way or other reasons, then the title policy must certify that the property owned is wholly contained within the described area on the annexation map. If the applicant is not the owner, there shall be provided a notarized affidavit by the owner stating that the applicant is authorized by the owner to make application for annexation.
6. The applicant shall provide a copy of the prior year's property tax statement and paid receipt for all property to be annexed.
7. If zoning is requested simultaneously with annexation, the petitioner must submit a completed zoning application form, including a zoning map, for the property. If zoning is approved, the applicant must amend the official zoning map and pay all application, mapping, and recording fees. If zoning is not requested simultaneously with annexation, the property is required by statute to be brought under compliance with this Code and the zoning map within ninety (90) days of the completion of the annexation process.
8. The application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing service and facilities. It shall detail the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall be one (1) or more paragraphs in length and shall be adequate to fully explain the needs, concepts, and proposed solutions for each of the following:
 - i. The economic impact to the community.
 - ii. The impact on schools, including an estimate of the number of students to be generated by development of the property.

- iii. The anticipated sources of water, sanitary sewer, and other utilities to be used to serve the property and the impact on the water and sanitary sewer systems anticipated to serve the property.
- iv. The impact on the existing transportation system.
- v. The compatibility of the proposed development with the Comprehensive Plan and any plan amendments that may be necessary for the proposed development.

A review of existing and adjacent land uses, areas of compatibility or conflict and possible mitigation measures that may be required for the proposed development.

(c) Review Criteria.

The Town shall evaluate annexations according to the following criteria:

1. The annexation complies with the Municipal Annexation Act of 1965, as amended (Sections 31-12-101 et seq., C.R.S.).
2. The proposed annexation complies with the Comprehensive Plan goals and objectives, other adopted plans and policies, and any other relevant information in determining whether it is in the best interests of the Town to grant or deny the petition for annexation.
3. The proposed annexation promotes geographical balance of the Town's land use pattern.
4. Adequate facilities and services are or will become available to support the current or future development within the annexation area. Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town in order for the public needs to be served by such facilities (including but not limited to streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites and storm drainage facilities).
5. The annexation shall be shown not to create any additional cost or burden on the then-existing residents of the Town.
6. The applicant has demonstrated that the proposed annexation follows all pertinent intergovernmental agreements to which the Town is a party.
7. The applicant acknowledges and agrees that it is the applicant's responsibility to apply for exclusion from any applicable special districts.
8. The proposed annexation is needed to accommodate future land use requirements.
9. Unless otherwise agreed to, the landowner has waived in writing any preexisting vested property rights as a condition of annexation.

(d) Review Procedures.

In addition to the specific notice and review procedures required by state statutes at the time of annexation, and in accordance with the general procedures section of this Code, the following specific procedures apply to annexations:

1. Pre-application. Annexation pre-application conference with Town staff to determine the feasibility of the annexation request. The applicant may opt for a concept review for a more in-depth review of proposed plans.
2. Petition. A petition for annexation shall be submitted to Town staff, along with the annexation application items required by this Section and documentation of the supporting the eligibility of the property to be annexed according to the requirements set forth in the Article 31, The annexation petition shall be signed by more than fifty (50) percent of the landowners in the area and owning more than fifty (50) percent of the land area of the proposed annexation.
3. Eligibility hearing. Upon staff's determination that the petition and supporting documentation are complete and in compliance with C.R.S. and this Code, staff shall refer the petition to Town Council. The Town Council shall take the appropriate steps to determine if the petition is in substantial compliance with C.R.S.
 - i. If the petition is found to be in substantial compliance with C.R.S. and this Code, the Town Council may set the annexation and zoning for public hearing on a specified date, time, and place, not less than thirty (30) days nor more than sixty (60) days from the effective date of the resolution.
 - ii. If the petition is found not to comply with C.R.S. and this Code, no further action shall be taken except that the determination shall be made by resolution of the Town Council.
4. Notice. The published and posted notice of the public hearings shall be provided as required by Sections 31-12-101 and 31-12-108 et seq., C.R.S., as amended.
 - i. Notice of the public hearing for annexation set by the resolution of substantial compliance shall be published and given to the county and to any special district or school district having territory within the area to be annexed in accordance with State law.
 - ii. A copy of the published notice, together with the letter of intent provided with the application and the annexation maps, shall be sent by the Town by U.S. mail to the owners of real property, irrigation ditch companies whose rights-of-way traverse the property to be annexed and to the mineral estate owners and their lessees of the property to be annexed, as outlined in Section 16.2.140 of this Code. Notice provided by the Town to the owners of the mineral estate and their lessees shall not relieve the petitioners of the responsibility to provide

notice as required by Sections 24-65.5-101 et seq., C.R.S. In the case of a "flagpole" annexation, the Town shall also provide notice to abutting property owners as specified in Section 31-12-105, C.R.S.

iii. Notice to mineral estate owners and lessees. Upon notice of complete application by Town Staff, the petitioner shall be responsible for providing notice of each public hearing (Planning Commission and/or Town Council) to the owners of the mineral estate on the property to be annexed and to their lessees, as required by Sections 24-65.5-101 et seq., C.R.S. The petitioner shall certify to the Town the petitioner's conformance with this notice requirement, not less than fifteen (15) days prior to the date of the public hearings.

5. An annexation impact report conforming to Section 31-12-108, C.R.S., is required for areas of ten (10) or more acres and will be completed by the Town with information provided by the applicant.

6. The annexation assessment report is necessary for the Town to evaluate the feasibility and impacts of the proposed annexation on the Town's infrastructure, 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 Comprehensive Plan; sources of revenue from the property; the Town's costs to serve the proposed development and other related matters.

7. Planning Commission review and recommendation

i. The Planning Commission shall review, as a public hearing, the annexation application at a regular or special meeting to be held prior to the date of the public hearing before the Town Council. The Planning Commission will make a recommendation by motion to the Town Council regarding the overall annexation of the property to the Town. The Planning Commission motion may be to recommend approval, approval with conditions or denial of the annexation.

ii. At this same hearing, the Planning Commission may review the requested zoning of the property. Notice of the Planning Commission review of zoning shall be given in accordance with the requirements for an amendment to the zoning map. The Planning Commission shall recommend to the Town Council approval with or without conditions or recommend denial of the requested zoning.

8. Town Council public hearing and action on the annexation.

i. The Town 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. The Town Staff shall testify 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 Town Council. The Town Council may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Town Council shall adopt a resolution containing the findings of fact and conclusions, including:

- A. Whether the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and this section have been met.
- B. Whether additional terms and conditions are to be imposed.
- C. Whether an election is required, either as a result of a petition for election or the imposition of additional terms and conditions.
- i. If the Town Council finds that the area proposed for annexation does not comply with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., the annexation proceeding will be terminated.
- ii. If the Town Council finds the following, then the Town Council may annex the land by ordinance without election and approve any annexation agreement. The zoning of the property, if requested with annexation, shall be approved by separate ordinance:
 - A. The annexation complies with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and the provisions of section 30 of Article II of the Colorado Constitution."
 - B. An election is not required under Section 31-12-107(2), C.R.S., or Section 30(1)(a) of article II of the Colorado Constitution.
 - C. No additional terms and conditions are to be imposed.

(e) Effect of Decision.

Town action on the annexation application shall not become final unless all requirements of the annexation ordinance and state statutes have been satisfied, as certified by the Town Manager. When all requirements have been satisfied, the ordinance, the annexation agreement, and the annexation map shall be recorded with the Weld County Clerk and Recorder.

(f) Three-Mile Plan.

The Severance Comprehensive Plan shall serve as and shall constitute the "plan in place" referenced in Section 31-12-105(1)(e), C.R.S., unless a different plan, supplement or revision is expressly adopted to serve as a plan in place. The plan in place may also be commonly referred to as the "Three-Mile Plan" and such plan shall be deemed automatically updated annually on

January 1 of each year without further action by the Town unless a change or modification is necessary and is adopted by resolution or ordinance by the Town Council. The absence of a specific reference in such plan to a particular parcel of land proposed for annexation shall not be interpreted as a statement of intent to not annex such parcel of land; it is the plan and intent of the Town Council to evaluate and to consider for potential annexation all property within three (3) miles of the Town's then-existing municipal boundaries upon submission of a petition or as otherwise permitted by this Article and the Municipal Annexation Act of 1965. The absence in the plan of a specific reference to any character or extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities and terminals for water, light, sanitation, transportation and power to be provided by the Town, and the proposed land uses for the area shall not be interpreted as a failure to comply with Section 31-12-105(1)(e), C.R.S., but shall be interpreted as a plan by the Town to determine the appropriate character or extent of land uses and services through the Town's applicable processes of annexation, planning and development approvals on a case-by-case basis. The plan in place may also be amended or modified to identify the character or extent of land uses and services more specifically at any time or contemporaneously with any annexation.

(g) Water resources required at annexation.

All surface and sub-surface water rights appurtenant to or underlying the territory to be annexed shall be dedicated and conveyed to the Town ~~concurrently with and~~ as a condition to approval of the annexation. The Town Council in its sole discretion may require either: (1) The annexation agreement contain terms allowing the dedication and conveyance to be delayed until approval of a final plat for a subdivision or similar final approval for a development not requiring a subdivision; or (2) The severance of ownership or control of the appurtenant water rights from the annexed property shall preclude its annexation. ~~as the Town Council may determine in its sole discretion.~~ The Town may also require as a condition of annexation the dedication and conveyance of all supplemental water resources in such amounts as necessary to support full development of the territory to be annexed.

1. The Town Manager shall administratively approve the required deed form and title assurances for the conveyance of all water rights to the Town. Such conveyance shall require, at a minimum, the warranty of title given by the grantor in a special warranty deed. The grantor shall provide Town with an opinion of title from a qualified water rights attorney that grantor has good and marketable title to the water rights. All reasonable costs incurred by the Town in reviewing the opinion shall be borne by the grantor. The annexation agreement and/or deed shall provide that, in the event it is determined after the recordation of the deed that the deed did not vest in the Town marketable title to the water rights, the development entitlements granted in reliance on the dedication shall be suspended until the title defect is cured or alternative water rights are conveyed to and accepted by the Town in accordance with this Code.

2. It shall be the responsibility of the landowner, at their sole expense, to obtain a final decree to any water rights, or for approval of an augmentation plan for not-non-tributary groundwater, prior to conveyance to the Town. Under special circumstances, as determined by the Town Council in its absolute discretion, the Town may participate in such adjudications or accept un-adjudicated groundwater, provided that the cost of adjudication and yield from the subsequent adjudication are addressed in the applicable development agreement or annexation agreement.

(h) Payments.

The Town may require as a condition of annexation the payment of additional amounts by the petitioners or others deemed necessary, beneficial or advantageous by the Town, including but not limited to payments to offset anticipated costs or expenses of providing services to the annexed property or residents of the annexed area, to mitigate anticipated impacts to the annexed area or to surrounding lands, to upgrade infrastructure within the Town, or to defray any costs or expenses of the Town.

(i) Annexation agreement.

Except for Town-owned property, Town-initiated annexation of enclaves, annexations upon election, or when waived by the Town Manager, an annexation agreement is required for all annexation applications and before the annexation may be approved. The Town will provide the applicant with a draft agreement to review and finalize as part of the development review process. The annexation agreement in a form approved by the Town Attorney must be executed by the property owner(s) prior to scheduling the public hearings on the annexation proceedings. The annexation application is reviewed and considered by the Town Council as part of the overall annexation request.

Section 16.2.215. Initial zoning and rezoning (Sec. 16.19.60)

(a) Purpose.

The procedure for establishing or changing the boundaries or area of any zone district, or for establishing or changing the zoning classification of any parcel of land within the Town, as shown on the official zoning map of the Town shall be as provided in this Section. An official map amendment may be necessary to:

1. Establish initial zoning with an annexation application;
2. Correct a manifest error in an ordinance;
3. Implement the Comprehensive Plan goals and policies;
4. Implement a change in the regulations and restrictions of an area;
5. To account for changed or changing conditions in a particular area or in the Town generally; and/or

6. To reflect or implement a change in public policies with respect to development.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested zoning or rezoning request. Include documentation and rationale for the zoning or rezoning request based on the review criteria of this section.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A zoning map drawing in a format as required by the Town and meeting the Town's minimum standards, as may be amended, including but not limited to:
 - i. Full extent of the property boundaries, consistent with the associated subdivision plat boundaries and descriptions.
 - ii. Existing and proposed zoning of all properties associated with the zoning or rezoning request.
 - iii. Existing zoning of adjacent properties.

(b)(c) Review Criteria.

No application for rezoning of property shall be approved unless it is demonstrated:

1. The proposed zoning bears a reasonable relationship to the general welfare of the community; and
2. At least one of the following additional factors exists:
 - i. The proposed zoning is consistent with or promotes the goals and/or policies of the Comprehensive Plan, and any other applicable Town adopted plans and/or policies; or
 - ii. If the proposed zoning would be in conflict with the goals or policies of the comprehensive plan, the proposed rezoning demonstrates an improvement over the existing zoning in implementing the goals or policies of the comprehensive plan; or
 - iii. The property to be rezoned was previously zoned in error; or
 - iv. There has been a material change in the character of the neighborhood or in the Town, such that the proposed zoning would be in the public interest and consistent with the change; or
 - v. The proposed zoning serves a community need or amenity that was not considered at the time of the initial zoning of the property.

~~(c)~~(d) *Review Procedures.*

In addition to the general procedures found in this Code, the following requirements are specific to rezoning applications:

1. The application shall include a written statement describing the proposal and addressing the following points:
 - i. Rationale for the proposed rezoning.
 - ii. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area.
 - iii. Impact of the proposed zone on area access and traffic patterns.
 - iv. Availability of utilities for any potential development.
 - v. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools, and transit.
 - vi. The relationship between the proposal and the Comprehensive Plan.
 - vii. Public benefits arising from the proposal.
 - viii. The applicant shall provide contact information to the Town with mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies.
2. The application is encouraged to be accompanied by an illustrative site plan. The illustrative site plan is intended to supply enough information about the development for the Town Staff to evaluate and for the Town Council to make a decision on the rezoning application. The information to be supplied will be determined by the Town Manager as part of the pre-application review but should indicate the feasibility and design characteristics of the development potential of the property.
3. Applications for rezoning may run concurrently with related development applications at the direction of the Town Manager.
4. Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule review of the rezoning request by the Town Council during a public hearing.
5. The Town Council shall hold a public hearing and make a final decision on the rezoning application by ordinance.

~~(d)~~(e) *Effect of Decision.*

Upon approval of a rezoning request to the official zoning map by the Town Council, the Town shall cause an appropriate revision of the official zoning map to be prepared. If the applicant initiated the rezoning request, the petitioner shall pay the Town's cost for the preparation of the

revision to the official zoning map. The Town shall record a copy of the official zoning map amendment with the County.

~~(e)~~(f) General rezoning of the Town.

Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description thereof, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection with the Town for fifteen (15) days prior to the public hearing on such amendments.

~~(f)~~(g) Zoning of annexed territory.

The procedure for the initial zoning of property annexed or to be annexed to the Town shall follow, to the extent practicable, the procedures applicable herein to rezonings. In such circumstances, the zoning procedures may be instituted at any time after a resolution of intent to annex is adopted pursuant to C.R.S. § 31-12-106, as amended, or after a petition for annexation or a petition for annexation election has been found to be valid in accordance with C.R.S. § 31-12-107, as amended

1. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.
2. Any area annexed shall be initially zoned by the Town within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety (90) day period, or such portion thereof as is required to zone the territory, the Town shall not issue a building permit for any portion(s) of the newly annexed area.

Section 16.2.220. Minor subdivision (Sec. 16.19.70)

(a) Purpose.

Minor subdivisions establish or alter legal boundaries of parcels consistent with the Town's regulations and design criteria of this Code, but do not significantly alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers. The Town Council expressly delegates and grants to the Town Manager the authority to review and approve through the administrative process lot line adjustments and minor subdivisions, as defined by this Code. The authority granted and delegated hereby shall include the authority to execute and file with the office of the county clerk and recorder a subdivision plat conforming to the requirements of this Section. The authority granted and delegated hereby is subject to the following conditions and limitations:

1. The alteration or creation of legal boundaries for five (5) or fewer lots, blocks, tracts, and/or outlots;
2. The resulting lots can be served by municipal services through existing public improvements or through the construction of public improvements;
3. The resulting lots meet the minimum lot size requirements of the zone district in which the lots are located;
4. The lot line adjustment or minor subdivision is not being utilized to circumvent the regular process of review or other provisions of the subdivision design standards, particularly as it pertains to the number of lots created by the process itself, the impacts of the development or improvements, or in conjunction with other lot line adjustment or minor subdivision applications;
5. The establishment of land as a condominium common interest community, as defined in the Condominium Ownership Act, or the Colorado Common Interest Ownership Act, as appropriate; and
6. The establishment of zero lot line townhouse and small lot detached developments, as defined in this Code, and that do not exceed five (5) acres in aggregate size or involves the creation and dedication of any public rights-of-way to the Town.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

5. A complete land use application form and checklist with appropriate fees paid.
6. A written letter of intent for the requested minor subdivision.
7. Property documentation and proof of ownership, in a form acceptable to the Town.
8. A minor subdivision plat meeting the requirements of this Code. The plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to:
 - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.

- iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
- v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
- vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- 9. Engineering reports and studies, as appropriate and as requested by the Town, which may include drainage, utility, and soils/geotechnical reports prepared by a registered professional engineer and meeting all applicable engineering standards and specifications adopted by the Town.
- 10. Supporting materials as determined by the Town.

(b)(c) *Review Criteria.*

The Town Manager shall approve a lot line adjustment or minor subdivision if it meets the following criteria:

1. As applicable, the minor plat or lot line adjustment complies with all applicable use, development, and design standards set forth in this Code;
2. As applicable, the minor plat or lot line adjustment is consistent with the terms and conditions of any previously approved development plan;
3. Existing or proposed utility facilities and services within the service area for the proposed subdivision are currently or will be adequate to meet the expected impact on and use of utility facilities and services by all possible uses of the proposed subdivision, and such uses will not compromise the overall operation of the applicable Town utility enterprise or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider; and
4. The plat will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

(c)(d) *Review Procedures.*

In addition to the specific review procedures required in accordance with the general procedures section of this Code, the following specific procedures apply to minor subdivision applications.

1. The Town Manager shall review each lot line adjustment application or proposed minor plat relative to the applicable approval criteria.

2. If the Town Manager determine at any point in the process that the application is no longer eligible to continue or does not meet the criteria as a minor subdivision, the Town Manager may deny the application or allow the applicant to reclassify as a preliminary subdivision according to additional required information or fees.
3. All construction plans for subdivision-related public improvements shall be referred to the Town Engineer, Director of Public Works, and applicable utility providers for review and approval.
4. After staff and referral agency review, and any necessary resubmittals to address all outstanding review comments, the Town Manager shall act to approve, approve with conditions, or deny the lot line adjustment application or proposed minor plat. The Town Manager shall make a final decision on the lot line adjustment plat or minor plat.

~~(d)~~(e) *Effect of Decision.*

If the minor subdivision is approved, the Town shall have the signed plat recorded with the County. A recorded minor subdivision shall create a vested property right for two years as specified in the vested property rights section of this Code, unless otherwise specified in a fully executed agreement.

Section 16.2.225. Minor plat amendment. (Sec. 16.19.80)

(a) Purpose.

The Town Manager may approve minor amendments to approved plats, which shall be recorded and shall control over the preceding non-residential plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

1. Correct an error in a course or distance shown on the preceding plat;
2. Add a course or distance that was omitted on the preceding plat;
3. Correct an error in a real property description shown on the preceding plat;
4. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
5. Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the owners of the plat.

6. Relocate a lot line to eliminate an inadvertent encroachment of a building, structure, or other improvement on a lot line or easement; or
7. Relocate or remove one or more lot lines between one or more adjacent lots if all of the following have been met:
 - i. The owners of all those lots join in the application for amending the plat;
 - ii. Lots must be combined so that no lot is created as a non-conforming lot, and no existing non-conforming lot remains; and
8. The amendment does not attempt to remove recorded covenants or restrictions.
9. Add one (1) lot line between two (2) adjacent lots if, at the Town Manager's discretion, the lot line does not alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers.

Section 16.2.230. Major subdivision overview ([Sec. 16.19.100](#))

(a) Purpose.

The purpose of the major subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in this Code, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive Plan.

(b) Applicability.

1. General. The procedures of this Section, and the standards and requirements set forth in this Code, shall apply to all that are not lot line adjustments or minor subdivisions, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the state or Town, unless specifically excluded by state statute.
2. Subdivision approval is a prerequisite to other approvals. Except with respect to property which is platted as a lot or part of a subdivision approved in accordance with the provisions of this Code (or prior law, if applicable), no building permit or certificate of occupancy shall be issued for any of the following and no person shall perform any of the following:
 - i. Construction of any new principal building or structure;
 - ii. Enlargement of any principal building used for nonresidential purposes by more than twenty-five percent (25%) of the existing floor area of such building; or
 - iii. An act which changes the use of any building.

(c) Restriction on sale or transfer of subdivided land without an approved plat.

Any person who transfers or sells any land located within the Town by reference to a plat that has not been approved by the Town and recorded by Weld County shall be guilty of a violation of this Code. The Town also may enjoin such transfer or sale by filing an action for an injunction.

(d) Construction work.

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat; however, the subdivider may undertake certain ground excavations for grading and drainage purposes if the Town Engineer issues the proper permits, and/or Public Works Department, at the subdivider's risk.

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(e) Public improvements required.

~~The decision-maker can condition its approval and~~ Subdivisions may require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed development will be served by adequate water, sewer, and storm drainage facilities. Necessary improvements shall be required as a condition of approval. Applicants shall be required to pay for and construct all on-site and off-site public improvements and common facilities that are required to adequately serve the proposed development or are deemed necessary to address the impact caused by the proposed development. Payment for and construction of such on-site and off-site public improvements and common facilities shall be a condition of the approval of a final plat. Public ~~These~~ improvement and security requirements are found in Article 3 of this Code.

(e)(f) Subdivision agreement.

The public improvements and common facilities required to be paid for and constructed as part of the proposed development shall be governed by a separate development agreement pursuant to Article 3 of this Code. The Mayor or other authorized Town representative shall sign any related subdivision agreement.

(d)(g) Improvements guarantee.

The subdivider shall provide any required guarantee to the Town Clerk prior to the recording of the final plat unless otherwise authorized by the Town Council. Improvement guarantees shall be in a form specified and subject to the requirements and conditions detailed within this Code, the Town's Standards and Specifications, and the approved and executed subdivision agreement.

Section 16.2.231. Preliminary plat, ~~major subdivision~~.**(e)(h) Purpose.**

The preliminary plat application is the first step in the major subdivision process, followed by the final subdivision application as outlined in this Code. The preliminary subdivision process

provides a detailed planning review of development patterns, street networks, block and lot layout, and preliminary engineering for future development prior to the preparation of detailed construction and engineering plans.

(i) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested preliminary subdivision plat and documentation addressing compliance with the Town's adopted plans.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A preliminary subdivision plat meeting the requirements of this Code. The preliminary plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to:
 - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
 - v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
5. Preliminary subdivision engineering and technical reports and studies, as required and requested by the Town (see Final subdivision plat submittal requirements), including but not limited to:
 - i. Preliminary water, non-potable, sanitary sewer, and drainage analysis and reports.

- ii. Preliminary grading and drainage plans following the Town's adopted specifications, or as directed by the Town Engineer.
- iii. Preliminary water, non-potable, and sanitary sewer plans following the Town's adopted specifications, or as directed by the Town Engineer.
- iv. Additional studies and reports may be required based upon the unique requirements or needs of the Town to review the proposal adequately.

6. Preliminary landscape and open space plan that addresses treatment of all exterior spaces. See the final subdivision plat submittal requirements for a breakdown of the required landscape plan details.

- ~~(f) Preliminary plat application submittal requirements.~~
- ~~(g) Submittal requirements as specified by the Town and identified within the application checklist, on file with the Planning Department.~~
- ~~(h) General development information. A written description of the existing conditions on the site and the proposed development shall include an explanation of how:~~
- ~~(i) Public facilities are consistent with the following adopted Town documents, which are on file in the Town's Planning Department:~~
- ~~(j) Comprehensive Plan;~~
- ~~(k) Transportation Master Plan;~~
- ~~(l) E. Harmony Road/WCR 74 and 1st Street/WCR 23 Corridor Plan;~~
- ~~(m) Water, Sewer, and Non-potable Water Master Plans, if applicable;~~
- ~~(n) Storm Water Master Plan, if applicable; and~~
- ~~(o) Other adopted documents related to Town utility enterprises or Town capital improvements.~~
- ~~(p) Preliminary grading and drainage plan and report. The purpose of the preliminary drainage plan and report is to identify existing site conditions and drainage problems, as well as those anticipated to result from development (whether on-site or off-site), and to present conceptual solutions to those problems. Historic drainage patterns and the effects of off-site drainage areas on the development and the effects of the development on downstream properties must be thoroughly assessed. This plan and report must be certified by a Colorado-registered professional engineer and include approximate earthwork quantities (how earthwork on the site is "balanced"), storm drainage concepts such as locations of pipe and other conveyance facilities, locations for on-site detention or downstream structural improvements and soil erosion and sedimentation control plans and specifications. It must also discuss the impacts on any existing floodways and/or floodplains, both on and adjacent to the site, as well as any Federal Emergency Management Agency (FEMA) applications required. It must also discuss previously submitted drainage studies for the site or project and their influence on the proposed stormwater facility design for the site, and if applicable, the Storm Water Master Plan, how recommendations in the Storm Water Master Plan affect the stormwater facility design for the site, and how the proposed stormwater facility design complies with the Storm Water Master Plan. It must also provide sufficient information for~~

~~an initial assessment of whether the proposed stormwater facility design for the site can safely convey storm water runoff through the development to an adequate storm water system and accessible point of disposal with sufficient system capacity to carry necessary flow of the proposed development without overflowing downstream channels and existing storm drainage facilities or causing damage to property.~~

~~(q) Preliminary water and sewer plan and study. A Colorado-registered professional engineer shall prepare this plan. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities throughout the subdivision. It must discuss the projected total water needs of the development for domestic consumption and fire protection, including without limitation, data on projected annual usage (GPY), average day demand (GPM/GPD), and maximum day demand (GPM/GPD), peak hour flow (GPM), as well as the projected total flow of sewage through a treatment plant expected to be generated by the proposed development. It must also discuss previous water and sewer studies for the site or project and their influence on the proposed design for water and sewer facilities, and if applicable, the Water, Sewer, and/or Non-potable Water Master Plans, how recommendations in the Water, Sewer, and/or Non-potable Water Master Plans affect the proposed water and sewer improvements for the site, and how the proposed water and sewer improvements for the site comply with the Water, Sewer, and/or Non-potable Water Master Plans. If located within the boundaries of the Town's water, non-potable water, or sewer utility enterprise respective service areas, it must also provide sufficient information for an initial assessment of the proposed development's impact on all parts of the Town's sanitary sewage collection system (including without limitation laterals, interceptors, lift stations, treatment plants, points of discharge), potable and/or non-potable water systems (including without limitation water source, water quality, treatment, storage, pumping facilities, and metering devices), as well as an evaluation of the adequacy of the Town's water, non-potable water, and/or sewer (where applicable) utility enterprises, respectively, to serve the proposed development together with existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).~~

~~(r)~~

(c) Preliminary Plat Review Criteria.

A preliminary plat for a subdivision shall be reviewed according to the following criteria:

1. Master Plan Compliance. The subdivision furthers the following planning objectives:
 - i. The proposal promotes the Town's adopted plans, goals, and policies;
 - ii. Proposed residential development adds diversity to the Town's housing supply;
 - iii. Proposed commercial development will benefit the Town's economic base;
 - iv. Parks and open space are incorporated into the site design;
 - v. The proposed project protects the Town's environmental quality; and
 - vi. The development enhances cultural, historical, educational, and/or human service opportunities.

2. The proposed land uses within the subdivision conform with the existing or proposed zoning.
3. The subdivision complies with all applicable use, development, and design standards set forth in this Code that have not otherwise been modified or waived pursuant to this this Code.
4. Mitigated impacts and no creation of burden. Negative impacts on adjacent land uses have been identified and satisfactorily mitigated. The subdivision will not create lots that are undevelopable or that are burdened with costs that would preclude development from occurring on other property.
5. Grading and drainage. The preliminary grading and drainage plan and report:
 - i. Indicates the stormwater management facility design for the proposed development adequately addresses all stormwater management and stormwater impacts anticipated to result from the proposed development (whether on site or off-site);
 - ii. Indicates that the proposed stormwater management facility design has considered the drainage basin as a whole and maintains the historic drainage path within the basin;
 - iii. Indicates that the proposed stormwater management facility design can safely convey storm water runoff to an adequate storm drainage system and accessible point of disposal with sufficient system capacity to carry not only the necessary flow of the proposed development but also, where applicable, the runoff from those areas adjacent to and upstream from the proposed development itself, without overflowing downstream channels and existing storm drainage facilities or causing damage to downstream properties; and
 - iv. Demonstrates that stormwater runoff from the proposed development will not conflict with other land uses or negatively impact lands downstream, nor will it impair or disrupt any existing floodways and/or floodplains, both on and adjacent to the site or the functioning of other utility systems, both on and adjacent to the site.
6. Water resources. The preliminary water and sewer plan and study:
 - i. Indicates the proposed water, non-potable and sewer systems for the proposed development can be feasibly connected to the applicable Town utility enterprise system or other utility service provider's utility system;
 - ii. Indicates the proposed water, non-potable and sewer systems for the proposed development conform to the Town's Water, Sewer, and/or Non-potable Water Master Plans, where applicable; and
 - iii. Confirms that there will be adequate resources, facilities, and utility systems to adequately support and serve the proposed development together with existing development and development which is probable of connecting to the

applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).

iv. The amount of unused capacity of existing utility facilities and services, including without limitation, water, non-potable water, sanitary sewer, presently available to serve the proposed development, while maintaining sufficient and acceptable levels of service to existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued). The Town Engineer shall be responsible for completing and presenting a capacity assessment for the proposed development to the decision-maker, and the applicant shall be furnished a copy of such assessment in advance.

v. The recommendations of the Town Engineer and/or other agencies, together with any supporting analysis or other information presented, regarding the available capacity of the water, non-potable water, sanitary sewer, and storm drainage utility systems that will be impacted by the proposed development, and whether existing utility facilities and services are presently available to, and adequate to serve, the proposed subdivision.

7. Other utility capacity. Existing or proposed utility facilities and services within the service area for the proposed subdivision are currently or will be adequate to meet the expected impact on and use of utility facilities and services by all possible uses of the proposed subdivision, and such uses will not compromise the overall operation of the applicable Town utility enterprise or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider.

8. Transportation. The transportation designs are adequate and meet the standards set by the Severance Transportation Master Plan and the Severance Construction Standards given existing and planned capacities of the Town's municipal street system.

9. Easements. The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.

10. Phasing. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

2. ~~The transportation designs are adequate and meet the standards set by the Severance Transportation Master Plan and the Severance Construction Standards given existing and planned capacities of the Town's municipal street system.~~

~~(s)(d)~~ Review Procedures.

Review of the preliminary plat shall follow the general procedures in Division 1 of this Article.

~~(t) After staff and referral agency review, and any necessary resubmittals to address all outstanding review comments, the Town shall schedule review by the Planning Commission.~~

~~(u) The Planning Commission shall hold a public hearing and make a recommendation on the preliminary plat to the Town Council. Following review and a decision by the Planning Commission, the Town shall schedule a review and final decision by the Town Council.~~

~~(v) The Town Council shall hold a public hearing and make a final decision on the preliminary subdivision plat.~~

~~(w)(e)~~ Effect of Decision.

1. Approval of the preliminary plat does not constitute approval of the final plat.
2. The preliminary plat shall not be recorded.
3. The preliminary plat shall not be used for the purpose of selling or transferring interests in real estate, which is a violation of state statute per Section 31-23-216, C.R.S.
4. Approval of a preliminary plat shall be effective for two (2) years.
5. *Extensions.* The Town Council may, at the request of the applicant, extend its approval an additional year without the submission of a new preliminary plat, provided no development or change in requirements has occurred that would affect the proposed subdivision. No extensions of approval shall be granted more than once. Extension of a preliminary subdivision approval is at the discretion of the Town Council.
6. An approved preliminary plat shall lapse and be of no further force and effect if a complete final plat application for the subdivision or a phase of the subdivision has not been submitted within two (2) years after the approval date of the preliminary plat or within the Town Council approved extension period.
7. *Phased final plats.* In the case of partial final plat submission or subsequent partial final plat submissions, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of one (1) year with each final plat filing.

8. ~~Construction work.~~ No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat; however, the subdivider may undertake certain ground excavations for grading and drainage purposes if the Town Engineer issues the proper permits, and/or Public Works Department, at the subdivider's risk.

Section 16.2.232. Final ~~Plat~~plat, major subdivision.

(a) Purpose.

The purpose of a final plat review is to ensure that a proposed subdivision complies with this Code, the regulations of affected utility providers and the approved preliminary plat, while accurately depicting property boundaries, easements, and infrastructure; to provide a process to review the construction of public improvements; and ultimately for safeguarding the public health, safety, and welfare in the development. The purpose of the final plat is to review the proposed subdivision for Review of the subdivision prior to recording the final plat ensures proper final engineering subdivision design and ; for legal requirements to accurately represent real estate interests. The final plat is used; to provide for dedication of lands required for public use. and for the construction of public improvements; and for conformance with the form of the Preliminary Plat.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested final subdivision plat.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A final subdivision plat meeting the requirements of this Code. The final plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to:
 - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).

- v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- 5. Final subdivision engineering and technical reports and studies, as required and requested by the Town, including but not limited to:
 - i. Final water report including hydraulic analysis and pipe sizing calculations.
 - ii. Final sanitary sewer report including hydraulic analysis and pipe sizing calculations.
 - iii. Sewage collection and water supply distribution plans, profiles, and specifications prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
 - iv. Final drainage plans and reports to be submitted in accordance with the Greeley Drainage and Design Criteria, as amended, or as the Town Engineer may approve. The Plan and report must provide:
 - A. Cross-sections of each water carrier showing high water elevations for one hundred (100) year runoff and adjacent features that may be affected thereby.
 - B. Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Larimer County and Weld County, ditch companies).
 - C. Supporting calculations for runoffs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
 - D. Erosion control Plans, when required.
 - E. Sizing of all pipes, inlets, conveyance ways and other appurtenances.
 - v. Final grading plan that illustrates existing and proposed contours and lot and block grading details.
 - vi. Soils report that details pavement design and construction requirements and shall be submitted after overlot grading is complete.
- 7. Final landscape and open space plan that addresses treatment of all exterior spaces. Landscape Plans are to be designed to meet the requirements of this Code and show trees, shrubs, groundcovers, turf, buffering, fences, walls, and other site amenities that will be included in the Plan. All Plant materials must be adapted to the physical limitations of the local climate and specific conditions of the landscape Plan.

- i. All Plant materials must meet specifications of the American Association of Nurseryman for No. 1 grade.
 - ii. All street trees must be selected from the Town's recommended tree list.
 - iii. Landscape plans shall include the minimum requirements as established in Article 3 of this Code, under Landscape Plan Requirements.
8. Construction plans and profiles. The plans and profiles shall be prepared by a registered professional engineer licensed in the State of Colorado and provide the following information, in addition to the development and design requirements of Article 3 of this Code.
- i. The horizontal to vertical scales shall be chosen to best depict the aspects of the design. The minimum horizontal scale is to be 1" = 100'. The minimum vertical scale is to be 1" = 10'.
 - ii. The typical road geometric and structural cross section is to be shown on each plan sheet.
 - iii. The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic-control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii and all other features to enable construction in accordance with approved standards and standard engineering practice. Stationing may be centerline if approved by the Town Engineer.
 - iv. Plans shall include water lines and appurtenances, sewer lines and appurtenances, stormwater lines and appurtenances and any other wet utilities such as non-potable water systems and irrigation ditches.
 - v. The profiles shall include existing and proposed grades at curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections, grade breaks, point of curb return, point of reverse curve and other critical points, structures and all other features required to enable construction in accordance with the standards adopted by this Code.
 - vi. Signature blocks for all utility providers shall be included unless otherwise provided in agreement form.
 - i-vii. Structure details. Sufficient data shall be given to construction of major structures and road appurtenances, such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc., or as the Town Engineer may approve.

(c) Review Criteria.

The final plat of a subdivision shall be reviewed according to the following criteria:

1. The final subdivision plat is in substantial conformance with the approved preliminary plat, and incorporates all recommended changes, modifications, and conditions attached ~~thereto to approval of the Preliminary Plat. For the purposes of this Code, substantial conformance, including design adjustments made to meet any conditions of preliminary subdivision approval, is determined as follows:~~
 - a. ~~Does not change any land use of the proposed subdivision plat.~~
 - b. ~~Does not significantly change the number of lots or residential density.~~
 - c. ~~Does not contain changes that would render the final subdivision plat in nonconformance with the requirements of this Code.~~
 - d. ~~Does not contain significant changes in street alignment and/or access points or other public elements such as drainage improvements, utility lines, or facilities.~~
 - e. ~~Does not significantly change any measurable standard (other than above).~~
 - f. ~~The development complies with this Code, the Comprehensive Plan, and Town-adopted plans and/or policies.~~
2. All applicable technical standards, including the provision of water of sufficient amount and quality, have been met.
3. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in [Article 3](#) of this Code, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been expressly permitted by the terms of the Preliminary Plat approval.
4. All construction plans for public improvements have been approved by the Town Engineer prior to the Town Council action on the Final Plat.
5. The applicant has either installed all required public improvements or has executed a subdivision agreement.
6. The applicant has paid or satisfied all applicable fees and charges.

(d) Review Procedures.

In addition to the specific review procedures required in accordance with the general procedures section of this Code, the following specific regulations apply to final subdivision applications:

1. *Concurrent review.* The applicant may proceed with the preparation of the final plat and other documents to be submitted with the application simultaneously with, or following

approval of, the preliminary plat at the risk of the subdivider. No final action shall be taken on a final plat until the corresponding preliminary plat has been approved and, if applicable, associated approval conditions have been satisfied.

2. The Town Council shall review at a public meeting and make a final decision on the final subdivision plat. The Town Council has final authority to approve, approve with conditions, or disapprove the final plat, accept the dedications, and to enter into and authorize the execution of a development agreement associated with the final plat.
3. *Final plats that differ from approved preliminary plats.* If there are significant changes on the final plat from the form of the approved preliminary plat, the final plat submittal shall require review and approval in the same manner as the preliminary plat (i.e., hearings before the Planning Commission and the Town Council). Significant changes include, but are not limited to, modifications of street patterns, lot layout, drainage ways, grading, density, utility systems or public improvements. The Town Manager shall review the final plat changes to determine the conformance to the preliminary plat and shall determine if the changes are sufficiently significant to require a new preliminary plat submittal. The subdivider may appeal the Town Manager's decision to the Planning Commission within fourteen (14) days of the decision.

(f) Effect of Decision.

Within sixty (60) days of the Town Council's approval of a final plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the applicant shall provide to the Town one (1) fully executed copy of the approved final plat, along with such other documents and fees as may be required by the Town Council or this Code. The Mayor and other authorized Town representatives shall sign the final plat. The Town shall then record the final plat and any signed subdivision agreement in the office Of the Weld County Clerk and Recorder. The applicant shall pay all required recording fees. The time periods provided for in this section may be extended for an additional sixty (60) days by the Town Manager upon written request and a showing of good cause. The Town Council's approval of any final plat shall be void if the applicant fails to comply with the time requirements of this Section.

- ~~1.—Sales prior to recording of final plat. Except as provided in this section, it is unlawful for any subdivider or agent of a subdivider to transfer, sell or advertise, offer, or agree to transfer or sell any separate interest in property before a final subdivision plat for such property has been approved in accordance with the provisions of this article and recorded with the County.~~

Section 16.2.240. Site plan (Sec. 16.19.110)

(a) Purpose.

The purpose of the site plan review process is to show how the proposed site layout will be developed in compliance with the development and design standards and regulations of this Code, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Plan. For land uses requiring a Site Plan review, such uses may be established in the Town, and building permits may be issued, only after a Site Plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section. Approval of a Site Plan pursuant to this section shall not constitute a "vested property right" to develop the property in accordance with the approved plan as "vested property right" is defined in C.R.S. § Sections 24-68-101 et seq., C.R.S., or otherwise, unless the Town Council take specific action, in accordance with the provisions of this Code.

(b) Applicability.

A site plan shall be required for the following:

1. All development, including additions, in all zone districts except for single-family or duplex residential dwelling uses;
2. Establishment of a use by special review; or
3. Any change of use from one primary use classification to another (e.g., residential use to commercial use).

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested site plan proposal.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A site plan drawing that generally includes a cover page, existing conditions, proposed site improvements and site details, grading, utilities, landscaping, architectural elevations and details, and a lighting plan, as appropriate based on the proposal.
5. Engineering reports and studies, as appropriate and as requested by the Town, which may include drainage, utility, and soils/geotechnical reports, and a traffic study prepared by a registered professional engineer and meeting all applicable engineering standards and specifications adopted by the Town.
6. Supporting materials as determined by the Town.

- ~~(d) Grading and drainage plan and report. The purpose of the drainage plan and report is to identify existing site conditions and drainage problems, as well as those anticipated to result from development (whether on-site or off-site), and to present conceptual solutions to those problems. Historic drainage patterns and the effects of off-site drainage areas on the development and the effects of the development on downstream properties must be thoroughly assessed. This plan and report must be certified by a Colorado-registered professional engineer and must include approximate earthwork quantities (how earthwork on the site is "balanced"), storm drainage concepts, such as locations of pipe and other conveyance facilities, locations for on-site detention or downstream structural improvements, and soil erosion and sedimentation control plans and specifications. It must also discuss the impacts on any existing floodways and/or floodplains both on and adjacent to the site as well as any FEMA applications required. It must also discuss previously submitted drainage studies for the site or project and their influence on the proposed stormwater facility design, and if applicable, the Storm Water Master Plan, how recommendations in the Storm Water Master Plan affect the stormwater facility design for the site, and how the proposed stormwater facility design complies with the Storm Water Master Plan. It must also provide sufficient information for an initial assessment of whether the proposed stormwater facility design can safely convey storm water runoff through the development to an adequate storm water system and accessible point of disposal with sufficient system capacity to carry necessary flow of the proposed development without overflowing downstream channels and existing storm drainage facilities or causing damage to property.~~
- ~~(e) Utility plans and report prepared by a registered professional engineer. It is necessary that the engineer consult with the appropriate utility service providers regarding the design of all utilities through the proposed development. It must discuss the projected total water needs of the development for domestic consumption and fire protection, including without limitation, data on projected annual usage (GPY), average day demand (GPM/GPD), and maximum day demand (GPM/GPD), peak hour flow (GPM), as well as the projected total flow of sewage through a treatment plant expected to be generated by the proposed development. It must also discuss previous water and sewer studies for the site or project and their influence on the proposed design for water and sewer facilities, and if applicable, the Water, Sewer, and/or Non-potable Water Master Plans, how recommendations in the Water, Sewer, and/or Non-potable Water Master Plans affect the proposed water and sewer improvements for the site, and how the proposed water and sewer improvements for the site comply with the Water, Sewer, and/or Non-potable Water Master Plans. If located within the boundaries of the Town's water, non-potable water, or sewer utility enterprise respective service areas, it must also provide sufficient information for an initial assessment of the proposed development's impact on all parts of the Town's sanitary sewage collection system (including without limitation laterals, interceptors, lift stations, treatment plants, points of discharge), potable and/or non-potable water systems (including without limitation water source, water quality, treatment, storage, pumping facilities, and metering devices), as well as an evaluation of the adequacy of the Town's water, non-potable water, and/or sewer (where applicable) utility enterprises, respectively, to serve the proposed development together with existing development and development which is reasonably probable of connecting~~

~~to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).~~

~~(f)–~~

~~(g)(d)~~ Review Criteria.

The site plan shall be reviewed according to the following criteria.

1. The site plan is consistent with the Town's Comprehensive Plan.
2. The site plan is consistent with any previously approved subdivision plat, or any other precedent plan or land use approval as applicable.
3. No buildings or structures infringe on any easements so as to impact the full use and enjoyment of the easement.
4. The proposed site grading is consistent with the requirements of adopted storm drainage criteria or master drainage plans.
5. The site plan conforms to all applicable development, density, and design standards of this Code.
6. The drainage and utility plans and studies confirm that there will be adequate resources, facilities, and utility systems to adequately support and serve the proposed development together with existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).
7. The amount of unused capacity of existing utility facilities and services, including without limitation, water, non-potable water, sewer, and storm drainage, presently available to serve the proposed development, while maintaining sufficient and acceptable levels of service to existing development. The Town Engineer shall be responsible for completing and presenting a capacity assessment for the proposed development to the decision-maker, and the applicant shall be furnished a copy of such assessment in advance. The recommendations of the Town Engineer and/or other agencies, together with any supporting analysis or other information presented, regarding the available capacity of the water, non-potable water, sewer, and storm drainage utility systems that will be impacted by the proposed development, and whether existing utility facilities and services are presently available to, and adequate to serve, the proposed development. The following shall be included in the consideration:
 - i. Buildings under construction that will be connected;
 - ii. Buildings required to connect, but not as yet connected to the utility;

iii. Legal buildable lots in approved subdivisions for which building permits have not been issued;

iv. Other proposed subdivisions that have received final plat stage approval and have paid all applicable water and wastewater utility fees;

v. Access to and movement through the site are consistent with any applicable plans and standards adopted by the Town, such as the Transportation Master Plan, highway corridor, or access control plan.

~~7. Public facilities are consistent with the following adopted Town documents, which are on file in the Town's Planning Department:~~

~~8. Comprehensive Plan;~~

~~9. Transportation Master Plan;~~

~~10. E. Harmony Road/WCR 74 and 1st Street/WCR 23 Corridor Plan;~~

~~11. Water, sewer, and non-potable water master plans, if applicable;~~

~~Other adopted documents relating to Town utility enterprises and Town capital improvements.~~

~~12. Existing or proposed utility facilities and services within the service area for the proposed development are currently or will be adequate to meet the expected impact on and use of utility facilities and services by all possible uses of the proposed development, and such uses will not compromise the overall operation of the Town's utility enterprises or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider.~~

~~13-8. Any significant, adverse impacts anticipated from the proposed development will be mitigated or offset to the maximum extent reasonably practicable.~~

~~14-9. As applicable, the proposed phasing plan for the development is rational in terms of available infrastructure capacity.~~

(e) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to site plan and site plan amendment applications:

1. Requests for alternative compliance or a variance from the criteria of this Code shall be processed concurrently with the site plan review but are subject to additional review, application fees as established by the Town, and adopted application submittal requirements.
2. The Town may require the applicant to execute a development agreement to ensure the completion of all on-site and off-site public improvements as shown on the site plan

drawings and identified in accompanying technical reports and studies to the site plan application.

3. Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule review of the site plan request by the Planning Commission ~~or~~ and Town Council, ~~where applicable~~.

~~4. If a use by special review is required, then the Planning Commission shall review the site plan request and make a final decision on the application.~~

4. The Planning Commission shall review the site plan and forward a recommendation of approval, approval with conditions, or denial to the Town Council.

5. ~~For all other developments for which a site plan is required, then the~~ Town Council shall review the site plan request and make a final decision on the application taking into consideration the recommendation of the Planning Commission and Town Staff.

~~(h)~~(f) Effect of Decision.

Approval of the site plan application shall authorize the applicant to apply for a building permit or other construction related permits associated with the project.

1. *Building permits.* A building permit shall be issued after a site plan has been approved and a development agreement in a form approved by the Town Attorney reflecting any additional requirements, if necessary, has been .executed. With Town approval, an applicant may submit a building permit application concurrent with the site plan application or during the review process. Building permits shall not be issued for any development that is not in conformance with the approved site plan.
2. *Certificates of occupancy.* Development of the site shall comply with the approved design and all conditions included in the site plan. A certificate of occupancy shall not be issued for a building or structure constructed in violation of an approved site plan.
3. *Effective approval and lapse.* The site plan shall be effective for a period of two (2) years from the date of approval unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than two (2) years old. For multi-phased plans, building permits shall not be issued based on an approval date more than two (2) years from the date of Phase I approval, or as otherwise described in the approved phasing plan and/or executed agreement. The decision-maker may grant a one-time extension for a maximum of one (1) year upon written request of the applicant, prior to expiration of the Site Plan. The remainder of any unbuilt portion of the site plan at the time of expiration shall be null and void and require new site plan application and approval.

(g) Public improvements required.

The decision-maker ~~can~~ may condition its approval and require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed

development will be served by adequate water, sewer, and storm drainage facilities. These improvements include, but are not limited to:

1. The construction of mains in all public and private streets or utility easements within and adjacent to the proposed development;
2. The construction of mains through the development to serve the lots and buildings or structures within the development and to adjacent properties to allow them to connect to and extend the water or sewer system;
3. The construction of off-site improvements needed to:
 - i. Connect to the existing system;
 - ii. Provide the storage and flows needed to meet the level of service standards and the requirements of the Water System Plan;
 - iii. Provide collection capacity needed to meet the level of service standards and the anticipated demand from the service area;
 - iv. Provide the storage and flows needed to meet the water demands generated by the proposed development; or
 - v. Provide the storage and flows needed to supply the fire flows needed to serve the development.
4. The construction of pressure-reducing valves and similar appurtenances to provide pressure zone separation in the distribution system;
5. The construction of lift and/or pump stations needed to serve the development if it is in a special pressure zone or because of topographical considerations. This will only be required or allowed in accordance with designated permanent lift and/or pump stations listed or shown in the current Water System Plan or Sewer System Plan;
6. The construction of replacements or improvements to existing facilities in order to maintain an established level of service for sanitary sewage discharge from the service area or for water system demand and fire flow to the development;
7. The construction of replacements or improvements to existing off-site facilities to the extent that the new development would cause the level of service for existing customers to drop below existing standards; or
8. The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.

Section 16.2.245. Site plan amendments ~~to approved site plans~~.

(a) Minor site plan amendments.

The following minor amendments [to approved site plans](#) may be reviewed and approved administratively by Town staff:

1. Changes in drives, parking, and sidewalks, if such changes further the intent of the Site Plan and this Code and are acceptable to the Town Engineer and Director of Public Works.
2. Changes in building height, setback, or similar provisions relating to the location of structures, site improvements, or open space areas or other measurable standard, necessitated by engineering or other unforeseen difficulties, of ten (10) percent or less, provided that the underlying zone district dimensional standards are met.
3. Changes to exterior building materials, architectural elements, landscaping, sign placement, lighting fixtures, utility boxes, equipment, panels, and other similar elements that the Town Manager may determine to be “minor.”
4. Addition of an accessory structure less than five hundred (500) square feet in size.
5. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

(b) Major site plan amendments.

Changes to approved site plans that exceed the ten percent (10%) threshold, or other major modifications that the Town Manager or their designee determine not to be “minor,” shall be considered a major site plan amendment and shall be processed as a new site plan application.

1. Major site plan amendments shall require Planning Commission approval or Town Council approval, as applicable, to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Code.

Section 16.2.250. Use by special review ([Sec. 16.19.130](#))

(a) Purpose.

As a general proposition, a “special use,” or “[use by special review](#),” is a use ~~which is permitted allowable~~ within the underlying zone district, ~~(that is, it adds to the uses designated for an underlying zoning district)~~, but which, because of the possibility that the proposed use could become incompatible in certain respects with other uses within the zone ~~district~~ due to expected adverse effects of the activity, ~~special~~ permission [through a special review](#) is required before the land may be put to that use. ~~The special use approval~~ [Approval of a use via a special review](#) only represents a determination that ~~as to the land,~~ a use additional to those permitted will be allowed [on a particular site](#). Accordingly, the purpose of use by special review is not to

exclude uses, but to evaluate the proposed use against criteria that are intended to reveal a fact that shows the particular use proposed at the particular location proposed would have an adverse effect unique and different (above and beyond) from those inherently associated with such a use, irrespective of its location, and to determine the need to make, and to permit the government to impose, reasonable or appropriate conditions on the permitted use to alleviate any undue concerns for health or public welfare caused by adverse land effects of the proposed use.

1. Additional regulations for certain uses. In addition to the review criteria, procedures, and effects of decisions of this Section, unique regulations and criteria exist for a use by special review application related to Wireless Telecommunication Facilities (Article 7 of this Code), Oil & Gas Drilling and Production Facilities (Article 8 of this Code), and Solar Development Facilities (Article 9 of this Code). It is the applicant's responsibility to review all applicable Articles and Sections of this Code when preparing their land use application for review by the Town.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written request with justification for the use by special review; and
- 1.3. An illustrative site plan with necessary information to review conformance of any construction with standards of this Code, and to review any performance criteria for the proposal.
4. Necessary reports or studies, as appropriate, to support the use by special review request.

(c) Review Criteria. A use by special review shall be reviewed according to the following criteria.

1. ~~Whether the proposal is~~The proposed use is consistent with the goals and vision of the Comprehensive Plan and other adopted plans and/or policies of the Town as applied to the particular location of Town proposed in the application.
2. ~~Whether the proposal~~The proposed use furthers the intent of the underlying zone district.
3. ~~Whether the proposed use~~The proposed use is consistent with any applicable use-specific standards set forth in the Code.
4. ~~Whether the proposal~~The proposed use will not result in an over-intensive use of land or depletion of natural resources.
5. ~~Whether the proposal~~The proposed use will not cause significant air, odor, water, or noise pollution.

6. ~~Whether the proposed use will~~The proposed use will not injure the value of adjoining properties or make surrounding property worth more without the use than with it.
 7. ~~Whether the proposal will~~The proposed use will not require a level of community resources greater than that presently available for the same or similar proposal occurring in another part of the Town.
 8. Whether facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development.
 9. Whether a limited approval timeframe for the requested use is necessary to:
 - i. Limit the duration of the use;
 - ii. Assess the use against changing conditions in the area; or
 - iii. Ensure periodic reporting and ongoing enforcement of any approvals.
 - iv. Review Procedures.
- (d) *Review Procedures.* In addition to the general procedures found in this Code, the following requirements are specific to use by special review applications:
1. Following review of the request by staff and referral agencies, and any necessary resubmittal(s), the Town Manager shall schedule review ~~and final action~~ of the request by the Planning Commission.
 2. The Planning Commission shall hold a public hearing and make a ~~final decision~~ recommendation to the Town Council on the use by special review request.
 3. The Planning Commission may include conditions on the ~~approval recommendation~~ to mitigate concerns with the physical development, operations, or maintenance.
 4. ~~Following the review and recommendation of the Planning Commission, staff will schedule review and final action of the request by the Town Council.~~
 - 4.5. ~~The Town Council shall hold a public hearing and make a final decision on the use by special review request.~~
 6. ~~The Town Council may include conditions on the approval to mitigate concerns with the physical development, operations, or maintenance. The decision of the Planning Commission may be appealed by the applicant to the Board of Adjustments within 15 days of the date of the decision thereon.~~
 - 5.7. Relationship to site plan requirements. If a Site Plan is necessary for the proposed use by special review, then a site plan application shall be processed concurrently with the use by special review application, as required by the Town. The Planning Commission shall render separate recommendations, and the Town Council render separate

decisions on the applications based on the applicable review criteria in this [Section 16.2.245](#) (for the Use by Special Review) and [Section 16.2.240](#) (for the Site Plan).

(e) Effect of Decision.

1. *Commencement of use.* Approval of a use by special review allows the applicant to [use the property as proposed](#). However, if the property requires development, the applicant shall have ~~apply for~~ a site plan application [reviewed and approved by the Town and any](#) ~~, as applicable, prior to a~~ building permit or other applicable development [and](#) construction permits [issued prior to commencement of the approved use](#).
2. *Minor changes.* The Town Manager may approve minor changes upon meeting each of the following criteria:
 - i. The change expands the floor area, height, or other dimensional standards of the original approval by less than ten (10) percent;
 - ii. There is not a change of use or significant increase in the intensity of the use that could adversely impact adjacent properties;
 - iii. The change does not exceed the limits or violate any specific conditions of the original approval; and
 - iv. The change complies with all other provisions of this Code.
3. All other proposed changes to the use shall require an amendment to the use by special review through the same procedures and criteria as the original application.

(e)(f) Lapse.

Approval of a use by special review shall lapse and be considered null and void:

1. The use itself, or if permanent construction in conjunction with such use, has not commenced within one (1) year of the approving action, or within the time frame established as a condition of approval of the use by special review. The Town Manager may grant a one (1) year extension to this timeframe that is ratified by the Town Council. This timeframe is distinct from any duration limits, periodic reviews, or renewal periods once the use is established, which may be a condition of approval by the Town; or
2. If the use is no longer active or in operation for a period of twelve consecutive months; or
3. Upon a change of primary use of the property.

(f)(g) Revocation.

A use by special review may be revoked or amended by the ~~Planning Commission~~ [Town Council](#) through the same procedures granting the original use by special review approval, upon a finding that the conditions of approval have not been met, the applicant's noncompliance with

any approved Site Plan or development agreement, if applicable, or that the use has otherwise violated the provisions of this Code. The Town Manager shall first notify the applicant in writing of the said violation and shall provide the applicant with a thirty-day period in which to abate the violation. Failure of the applicant to abate cited violations within thirty (30) days shall result in the commencement of a hearing process before the ~~Planning Commission~~Town Council. Upon completion of such review, the ~~Planning Commission~~Town Council may revoke the Special Review Use or amend the original approval.

Section 16.2.260. Appeals (Sec. 16.19.140)

(a) Purpose.

The appeals process allows for the review of a Town Staff decision, as permitted under this Code, to determine if there was an error or abuse of discretion in any order, requirement, permit, decision, determination, refusal, or interpretation made by any Town Staff in interpreting and/or enforcing the provisions of this Code. It is the intention of this Section that all questions arising in connection with the interpretation and enforcement of this Code shall be presented first to the appropriate department, that such questions shall be presented to the Board of Adjustment only on appeal from the decisions of that Department, and that recourse from the decision of the Board of Adjustment shall be to the courts. It is further the intention of this Section that the duties of the Town Council in connection with this Code shall not include the hearing or passing upon disputed questions that may arise in connection with the enforcement thereof.

(b) Submittal Requirements.

Applicants for an appeal request must submit the following to be deemed a complete appeal request.

1. Written notice of the appeal on a form approved by the Town.
2. A description and the date of the final order, requirement, decision, or determination being appealed.
3. A description of the grounds for the appeal, including specific allegations of error.

(c) Review Criteria.

The Board of Adjustment's review shall be limited to consideration only of the record before the decision-maker. The standard of review for such an appeal shall be limited to an "abuse of discretion and/or exceeding authority under this Code." Under this standard, the Board of Adjustment may only overturn the contested action if it finds that the decision-maker abused its exercise of discretion. The Board of Adjustment may use the following evidence in its review of the appeal:

1. The technical meaning of the provision being appealed.
2. Evidence of the way the provision has been interpreted in the past.

3. The positive or negative impact of the requested appeal on the achievement of stated development goals and policies of the Town, as outlined in this Code.
4. The intent of the provision in implementing the Comprehensive Plan and other adopted plans and/or policies of the Town.

~~(b)(d)~~ *Review Procedures.*

Appeal requests shall be filed in writing with the Town no later than fifteen (15) days from the date of the order, requirement, decision, or determination being appealed. Failure to make a timely and complete appeal request shall be considered a waiver of the appellant's rights to appeal to the Town's Board of Adjustment.

1. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by the order, requirement, permit, decision, or determination that is the subject of the appeal, or by the Town Manager, on behalf of the Town.
2. Appeals must be filed with the Town Clerk.
3. Applicants for an appeal request must submit the following to be deemed a complete appeal request.
 - i. Written notice of the appeal on a form approved by the Town.
 - ii. A description and the date of the final order, requirement, decision, or determination being appealed.
 - iii. A description of the grounds for the appeal, including specific allegations of error.
4. An appeal halts all proceedings in furtherance of the order, requirement, decision, or determination appealed from unless the Town certifies that it could cause imminent peril to life or property.
5. Once the appeal is determined to be complete, the Town Manager shall schedule review and action by the Board of Adjustment.
6. The Board of Adjustment shall complete its review at a public meeting and render its decision, by majority vote, to uphold or deny the decision on the item or contested action being appealed within 30 days of the filing of the request for an appeal.
7. The Board of Adjustment will have available to it the entire record of the contested action that was presented to or conducted before the applicable decision-maker.
 - i. While the Board of Adjustment will not be considering any new evidence or information, the appellant has submitted an appeal request containing written argument, and the appellant will have an opportunity to submit

arguments orally to the Board of Adjustment regarding its position in the appeal.

- ii. The chair may place reasonable restrictions on such arguments, but the decision to place any such limits or specific parameters on the conduct of the proceeding is entirely up to the chair. For example, the chair may limit the length of time for appellant's initial oral argument to 30 minutes as well as limit the length of time for the Board of Adjustment's questioning of the appellant to 30 minutes.
- iii. An appellant shall be notified in writing of any such limitations in advance. Furthermore, an appellant shall be given an opportunity to reserve any portion of their time allotted for initial oral argument for use during the period of Board of Adjustment questioning or to make final statements after Board of Adjustment questioning (for example, the appellant may only want to use ten (10) of their thirty (30) minutes to make their initial arguments, and reserve ten (10) of the remaining twenty (20) minutes for use to address questions and ten (10) minutes for their final statement to the Board after addressing Board questions).
- iv. Finally, the appellant shall be entitled to make a closing argument before Board deliberation.

- 8. Following the oral argument before the Board, the Board of Adjustment will deliberate and render a decision on the appeal request.

(e) Effect of Decision.

The Board of Adjustment's decision shall be final and appealable. Appeals from decisions made by the Board of Adjustment shall be to the courts pursuant to the applicable Colorado Rules of Civil Procedure.

Section 16.2.265. Variances (Sec. 16.19.150)

(a) Purpose.

The variance process is intended to provide limited relief from the requirements of this Code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this Code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Code may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this Code render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

(b) Limitations Eligibility.

1. Variances may only be issued for the following dimensional standards:
 - i. Setbacks (primary and accessory structures);
 - ii. Lot frontage;
 - iii. Lot coverage;
 - iv. Building height (primary and accessory structures);
 - v. Sign area or height; and
 - vi. Parking.
2. No variance shall be granted to permit a use of land not otherwise permitted in the applicable zone district.
3. A lot width or area variance associated with a subdivision will be considered as part of the subdivision process, except that no minor subdivision plat shall be processed by the town if it involves a lot width or area variance.
4. No variance shall be granted to increase the size or height of signs by more than ten percent above the requirements and limitations of this Code.
5. No variance shall be granted to decrease the amount of required parking by more than ten percent below the requirements of this Code.
6. No variance shall be granted to change either (a) a condition attached to an approved rezoning or special use, (b) a condition attached to an approved site plan; or (c) a condition attached to an approved final plat.
7. The Board of Adjustment may not change or alter this Code or change the zoning district map of the town.

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written justification of the requested variance and identified hardship in meeting the requirements of this Code.
3. A comparison of the requested variance against the existing criteria of this Code.
4. Supporting images and details that illustrate the requested variance and site details.

~~(e)~~(d) Review Criteria.

The Board of Adjustment may approve a variance only if it finds that there is an exceptional and undue hardship, whereby the application falls within any one of the categories set forth in

paragraphs (1), (2) or (3) of this subsection, and the application satisfies any one of the criteria of paragraph (4) through (7) of this subsection.

1. *Disability.* There is a disability affecting the owners or tenants of the property or any member of the family of an owner or tenant who resides on the property, which impairs the ability of the disabled person to utilize or access the property.
2. *Unusual conditions.* There are unusual physical circumstances or conditions, including, without limitation, irregularity, narrowness, or shallowness of the lot; or exceptional topographical or other physical conditions, unique to the affected property; and
3. *Compatibility.* The property could be developed in conformity with the provisions of this chapter, but the proposed variance will result in a building or structure form that is reasonable, customary, and consistent with or more compatible, in terms of building height, siting, and design elements, with the existing neighborhood in which the subject property is located.
4. *Hardship.*
 - i. Without the variance, there is no reasonable use of the property; or
 - ii. Strict compliance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area; or
 - iii. Strict compliance would require significant or unjustified expense in light of the scope of the project, or would result in destruction or demolition of all or a portion of the existing building, structure, or other attractive features of the property; or
 - iv. If the variance is denied, the development or use of the property cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same zoning district; provided, however, that loss of a more convenient or profitable use of property, or similar financial advantage, that similar variances have been granted elsewhere, or the fact that a more profitable use of the property might be had if a variance were granted are not grounds for a variance.
5. *Exceptional hardship.*
 - i. The hardship is one suffered by the applicant alone and not by neighbors or the general public; or
 - ii. The hardship is unique and unusual, or so, rather than one shared by many surrounding properties.
6. *Undue hardship.*
 - i. the hardship is not the result of the applicant's own actions; or

- ii. The hardship is the result of predecessors in interest of the property, which could not have been foreseen to create difficulty in complying with the ordinance for future improvements.

7. *Degree of requested variance.*

- i. The requested variance the minimum that will afford relief and the least possible modification of the requirements of the zoning code; or
- ii. the variance will neither result in the extension of a nonconforming situation, nor authorize the initiation of a nonconforming use of land, nor conflict with the goals and policies of the comprehensive plan and this Code; or
- iii. Corrective measures can be imposed upon the variance request to mitigate or to protect neighboring properties against the anticipated, expected impacts or adverse effects of the variance.

~~(d)~~(e) *Variance-pReview Procedures.*

1. A request for Variance may be initiated only by the property owner or their authorized representative
2. A complete application shall include the following minimum requirements:
 - i. A written request with the relief sought, together with the justification for the variance request, specifying the facts or circumstances that are alleged to show that the application meets the approval criteria.
 - ii. A conceptual site plan or plot plan with necessary information to review the request in relation to existing site conditions and the criteria of this Code.
3. A variance request shall be processed prior to or concurrently with a site plan application, as required by the Town.
4. Following review of the request by staff and necessary referral agencies, and any necessary resubmittal(s), the Town shall schedule review by the BOA.
5. The Board shall conduct a public hearing on the proposed variance.
6. Approval by a majority of the Board present shall be necessary to grant a variance.
7. The Board may impose conditions or unique requirements that best assure the criteria for approval are in place and maintained by the applicant, or to mitigate anticipated impacts of the variance, and that any violation of these conditions shall be considered a violation of an approval.

~~(e)~~(f) *Effect of Decision.*

Upon determination of a variance, the findings of approval or denial shall be by resolution with the justifications set forth. Upon approval, the applicant may proceed with the next steps in the process including but not limited to a site plan or building permit application.

~~(f)~~(g) *Lapse.*

Any variance granted shall become null and void:

1. If the variance is not exercised (e.g., building permit obtained, substantial construction commenced) within 180 days of the date it is granted;
2. If the approval or conditions of approval of the variance is violated;
- ~~2-3~~ If the Town Manager finds that redevelopment or modification of the subject property makes compliance with this Code possible without the previously approved variance; or
- ~~3-4~~ If the Town Manager finds that the alleged hardship or difficulty upon which the variance is based has been eliminated.

Section 16.2.270. Administrative adjustments (*Sec. 16.19.160*)

(a) Purpose.

The administrative adjustment process permits adjustments to certain provisions of this Code otherwise applicable to a property pursuant to the procedures in this Section. Administrative adjustments, comprised of two types, ~~alternative compliance~~ and minor modifications, ~~5-5~~ may authorize minor changes to pending applications, or to approved plans and permits, and relief from specified standards as stated in this Section.

1. Alternative Compliance requests are intended to relieve unnecessary hardship in complying with the strict letter of this Code, and to promote context-sensitive development, which are minor deviations from otherwise applicable standards that may be approved by the Town Manager. Alternative compliance requests are to be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process. They are not intended to relieve specific cases of financial hardship, nor to allow circumventing the intent of this Code and its standards.
2. Minor modifications are intended to ensure compliance with federal law.

(b) Eligibility.

1. Alternative compliance requests to relieve unnecessary hardship. As part of the review and approval of any procedure set forth in this Code, the Town Manager may approve adjustments of up to a maximum of five (5) percent from sign height or area and up to a maximum of ten (10) percent from the following general development and zoning district standards, provided that the applicable approval criteria listed below are met:
 - i. Minimum lot area, coverage, and frontage requirements;

- ii. Setback, parking, and building height requirements;
 - iii. Subdivision design and improvements standards; and
 - iv. Any other quantitative development standards set forth in this Code.
- 2. Minor modifications to ensure compliance with federal law.
 - i. Compliance with Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
 - A. The Town Manager may grant minor modifications to any use, building form, or design standard or any other provision stated in this Code in order to eliminate a substantial burden on religious exercise as guaranteed by the RLUIPA, as amended.
 - B. In no circumstance shall the Town Manager approve an adjustment that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zone district where this Code prohibits such use or accessory use/structure/activity.
 - C. In granting an administrative adjustment, the Town Manager may require conditions that will secure the objectives of the modified standard and that will mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or screening.
 - ii. Reasonable accommodations under Federal Fair Housing Act (FFHA).
 - A. The Town Manager may grant minor modifications to provide reasonable accommodations under the FFHA. In the application for a minor modification under this subsection, the applicant shall identify the type of housing being provided and cite the specific provisions of the FFHA that require reasonable accommodations be made for such housing. The Town Manager may grant the following types of minor modifications to assure reasonable accommodations required by law:
 - I. Modify any minimum distance or spacing requirements, building setback, height, open space or building coverage, or landscaping requirement by no more than ten (10) percent; or
 - II. Reduce any off-street parking requirement by no more than one (1) space.
 - B. The Town Manager may approve a type of reasonable accommodation different from that requested by the applicant if the Town Manager concludes that a different form of accommodation would satisfy the requirements of the FFHA with fewer adverse impacts on adjacent

areas. The decision of the Town Manager shall be accompanied by written findings of fact as to the applicability of the FFHA, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a variance or official map amendment (rezoning) process.

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written request and justification for the alternative compliance or minor modification request addressing the review criteria above.
3. A comparison of the requested alternative compliance or minor modification against the existing criteria of this Code or adopted guidelines.
- 3.4. Supporting images and details that illustrate the requested alternative.

(c) Review Criteria.

An administrative adjustment request shall be reviewed based on the following criteria.

1. If the alternative is a minor modification:
 - i. The adjustment is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Act; or
 - ii. The adjustment is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000.
2. The alternative will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use, or enjoyment of adjacent properties.
3. The alternative will result in an outcome that equally meets or exceeds the goals of the Comprehensive Plan, this Code, and adopted plans and/or policies by the Town.
4. The alternative ~~shall~~ does not alter any land use and dimensional standards of this Code.
5. The alternative ~~shall be~~ is based on specific site conditions and unique site context.
6. The ~~proposed~~ alternative ~~shall meet~~ meets or exceeds the design objective of the adopted design standard.
7. The alternative ~~shall~~ considers the context of the broader community benefits such as:

- i. Enhanced architectural features that complement or improve the character of the surrounding area.
- ii. Adaptive reuse of existing buildings.
- iii. Considerations of improved sustainability and mitigation of environmental impacts.
- iv. Enhanced pedestrian amenities and features.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to administrative adjustment requests.

1. An alternative compliance or minor modification request may be processed prior to submitting a formal site plan application. The details related to an alternative compliance or minor modification shall be part of the formal site plan drawings.
2. Following review of the request by staff and necessary referral agencies, and any necessary resubmittal(s), the Town Manager shall review and provide a determination on the request.
3. The Town Manager may attach any condition of approval to an administrative adjustment necessary to protect the health, safety, and welfare of the community, to secure the objectives of the modified standard, and to minimize adverse impacts on adjacent properties.

(e) Notation on approving documents-Effect of Decision.

Any approved administrative adjustment shall be specified on the approved plat, development plan, approval letter, or approving document for which the modifications were sought. The approval of an administrative adjustment will expire within one calendar year from the date of approval if a formal development proposal or permitting for which the administrative adjustment was sought is not in process or approved by the Town.

Section 16.2.280. Dedication and vacation of easements (Sec. 16.19.170)

(a) Purpose.

The dedication and vacation of easements is the process to officially record or eliminate easements that grant specific access and property interests stated on the recorded document, typically a plat or separate easement instrument.

(b) Eligibility.

Easements may be dedicated or vacated in association with a minor or major subdivision process, or by this Section of the Code.

1. Eligible applicants for the dedication of an easement(s) include any person or entity with a property interest in the abutting and underlying land. The owner of the underlying land must be involved in the dedication process.
2. Eligible applicants for the vacation of an easement(s) shall be the easement holder or underlying property owner.

(c) Review Criteria:

1. The legal requirements for recording or eliminating the easement(s) have been established, and all forms and fees required by the Town have been submitted.
2. The applicant has provided proof of ownership and provided notice to all other ownership interests in the easement or affected property.
3. The request will not be detrimental to any adjacent property owner.
4. No owner or entity with a property interest in the easement has objected.
5. All parties with interest in or potentially impacted by the request have received notice and have had time to comment, including public and private utility providers.
6. For a vacation, there is no current or future public purpose for the easement when considering the Comprehensive Plan and other adopted plans or policies.
7. The vacation does not result in an easement configuration that could create difficulty in the provision of services or installation of public improvements.
8. For a dedication, there are no conflicts with existing or planned easements and/or infrastructure.
9. The application meets all other procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the Municipal Code.

(d) Review Procedures:

In addition to the general procedures found in this Code, the following requirements are specific to dedicating or vacating easements within the Town:

1. The applicant shall submit an application, a plat, or other legal document showing the proposed vacation or dedication, the effect to adjacent or abutting properties, and a legal description as warranted based on the request.
2. The Town shall evaluate the application for completeness and coordinate review of the application per [Section 20-2-101](#). The review shall include a request for comments from all referral agencies who may have facilities or other interest in the easement.
3. The Town may require the applicant to complete a consent form from the applicant for all applicable public and private utility providers.
4. The Town Manager shall make a final decision following review and analysis by staff and referral agencies.

(e) Effect of Decision.

After approval of an easement dedication or vacation, the Town shall record the plat or other legal document with the County. A denial of a vacation or dedication application may be appealed to the Board of Adjustment.

Section 16.2.285. Dedication and vacation of rights-of-way (Sec. 16.19.180)

(a) Purpose.

1. The procedure for vacation of streets, alleys, or other public ways, and vesting of title upon vacation, shall conform to state law as provided in Section 43-2-301, et seq., C.R.S., 1973, as amended. In addition, said vacation shall conform to the specific procedure as provided in this Section. The Town Council has the authority to vacate public roads, which include any public street, alley, lane, parkway, avenue, road, trail, or other public right-of-way (ROW) designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.

(b) Eligibility.

ROW may be dedicated or vacated in association with a major subdivision process, or by the procedures of this Section of the Code.

1. Eligible applicants for a dedication or a vacation include the Town or any person or entity with a property interest in the abutting and underlying land.
2. For ROW abutting multiple property owners, the Town may require all owners to be part of the application.

(c) Dedication Review Criteria.

The dedication of property to be put into use as public ROW shall be left to the sound discretion of the Town Council. The Town Council shall not exercise its' discretion to dedicate public rights-of-way, unless it meets the following criteria:

- i. The applicant shall own the property free and clear of any encumbrances;
- ii. The ROW to be dedicated is consistent with the goals of the Town's Comprehensive Plan, Transportation Plan, and/or all other adopted plans or policies of the Town; and
- iii. The dedication shall help meet a Town goal, as determined by recommendation from Town Staff to the Town Council.

(d) Vacation Review Criteria.

3. Vacation of public roads shall be left to the sound discretion of the Town Council and the applicant shall have the burden of presenting sufficient information to justify the

requested vacation. The Town Council shall not exercise its' discretion to vacate any public road, unless it meets the following criteria:

- i. No property would be left without reasonable access or provision of any public facilities or utility services by reason of the vacation;
 - ii. The public road is no longer necessary for public use or convenience;
 - iii. The vacation will not restrict access to any parcel so that access is unsafe, unreasonable, or economically prohibitive;
 - iv. Adequate easements have been reserved for use and/or maintenance by the town or other utility agencies; and
 - v. The vacation is consistent with the goals of the Town's Comprehensive Plan.
4. In exercising discretion to vacate a public road, the Town Council may also consider impacts on mobility, parking, traffic, and safety, as well as any benefits to the Town that will result from removing the right-of-way from the municipal street system.

(e) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to dedicating or vacating rights-of-way (ROW) in the Town:

1. The applicant shall submit an application, a plat, or other legal document showing the proposed vacation or dedication, the effect on adjacent or abutting property, and a legal description as warranted based on the request.
2. The Town shall evaluate the application for completeness and coordinate review of the application per **Section 16.2.130**. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the ROW.
3. The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
4. Following review and analysis by staff and referral agencies, the Town Manager shall schedule a review by the Town Council.
5. The Town Council shall make a final decision and may condition a decision to vacate ROW on reserving any interest it determines necessary to serve a public purpose or the interests of the affected property.

(f) Effect of Decision.

After approval of a right-of-way dedication or vacation, the Town shall record the ordinance with the County.

Commented [MLM5]: Current sections deleted and new sections inserted below. New sections separate dedication procedures and vacation procedures into separate sections.

Section 16.2.280. Dedication of public rights-of-way and public easements (Sec. 16.19.170)

(a) Purpose.

The dedication of public rights-of-way and public easements is the process to officially record rights-of-way or easements that grant specific access and property interests for public purposes, as stated on the recorded document, typically a plat, deed, or separate easement instrument, or other instrument of dedication or conveyance.

(b) Eligibility.

1. Public rights-of-way and public easements may be dedicated in association with a minor or major subdivision process, or by this Section of the Code.
2. Eligible applicants for the dedication of public right(s)-of-way or public easement(s) include any person or entity with a property interest in the abutting and underlying land. The Town may require all property owners of land abutting or underlying the proposed right-of-way or easement to join or consent to the application.

(c) Review Criteria.

1. The legal requirements for recording the right(s)-of-way or easement(s) have been established, and all forms and fees required by the Town have been submitted.
2. The applicant has provided proof of ownership and provided notice to the owners of all other property interests in the proposed easement, proposed right-of-way, or affected property.
3. The dedication will not be detrimental to any adjacent property owner.
4. No owner or entity with a property interest in the proposed easement or right-of-way has objected.
5. All parties with an interest in or potentially impacted by the request have received written notice and have had an opportunity to comment, including public and private utility providers.
6. There are no conflicts with existing or planned easements, rights-of-way, or infrastructure.
7. For dedication of public right-of-way, the property to be dedicated is free and clear of all liens and encumbrances, except as may otherwise be approved by the Town Council in its sole and exclusive discretion.
8. The application meets all other applicable procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the Town's Municipal Code.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to dedicating public rights-of-way and public easements within the Town:

1. The applicant shall submit an application, a plat, or other legal document showing the proposed dedication, the effect to adjacent or abutting properties, and a legal description and instrument of conveyance as warranted based on the request.
2. The Town shall evaluate the application for completeness and coordinate review of the application per Section 16.2.130. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the proposed right-of-way or easement.
3. The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
4. Following review and analysis by staff and referral agencies, the Town Manager shall refer the dedication application to the Town Council for review and a decision. The Town Council shall review each right-of-way dedication application relative to the applicable approval criteria in this section, and shall by resolution approve, approve with conditions or modifications, or disapprove a dedication request.

(e) Effect of Decision.

After approval of the dedication of a public right-of-way or a public easement, the Town shall record the dedication, conveyance, or easement instrument, as applicable, with the county.

Section 16.2.285. Vacation of public rights-of-way and public easements (Sec. 16.19.180)

(a) Purpose and scope.

1. The procedure for vacation of streets, alleys, or other public ways, and vesting of title upon vacation, shall conform to state law as provided in Sections 43-2-301 et seq., C.R.S., as amended. In addition, said vacation shall conform to the specific procedure as provided in this Section.
2. The Town Council has the authority to:
 - i. Vacate public rights-of-way, which include any public street, alley, lane, parkway, avenue, road, trail, public access easement, or other public way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.
 - ii. Vacate public easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement instrument.

(b) Eligibility.

1. Public right-of-way may be vacated in association with a major subdivision process, or by the procedures of this Section of the Code.
2. Public easements may be vacated in association with a minor or major subdivision process, or by the procedures in this Section of the Code.

3. Eligible applicants for a vacation include the Town or any person or entity with a property interest in the abutting or underlying land.
4. For vacation of public right-of-way or public easements abutting or upon multiple properties, the Town may require all property owners to join or consent to the application.

(c) Review Criteria.

1. Vacation of public right-of-way and public easements shall be left to the sound discretion of the Town Council. The applicant shall have the burden of presenting sufficient information to justify the requested vacation. The Town Council shall not exercise its discretion to vacate any public right-of-way or public easement, unless it meets the following criteria:
 - i. The vacation of public right-of-way shall not leave any land adjoining said right-of-way without an established public road or private access easement connecting said land with another established public road;
 - ii. All parties with interest in or potentially impacted by the request have received written notice and have had time to comment, including public and private utility providers;
 - iii. For vacation of a public easement, no owner or entity with a property interest in the easement has objected;
 - iv. No property would be left without reasonable access or provision of any public facilities or utility services by reason of the vacation;
 - v. The right-of-way or easement is no longer necessary for public use or convenience;
 - vi. The vacation will not restrict access to any parcel so that access is unsafe, unreasonable, or economically prohibitive;
 - vii. The vacation does not result in an easement configuration that could create difficulty in the provision of services or installation of public improvements;
 - viii. Adequate easements have been reserved for use and/or maintenance by the Town or other utility agencies;
 - ix. There is no current or future public purpose for the public right-of-way or public easement when considering the comprehensive plan and other adopted plans or policies; and
 - x. The vacation is consistent with the goals of the Town's comprehensive plan.
2. In exercising discretion to vacate a public right-of-way, the Town Council may also consider impacts on mobility, parking, traffic, and safety, as well as any benefits to the

Town that will result from removing the public right-of-way from the municipal street system.

(d) Review Procedures. In addition to the general procedures found in this Code, the following requirements are specific to vacating public rights-of-way and public easements in the Town:

1. The applicant shall submit an application, a plat, or other legal document showing the proposed vacation, the effect on adjacent or abutting property, and a legal description of the right-of-way or easement to be vacated.
2. The Town shall evaluate the application for completeness and coordinate review of the application per Section 16.2.130. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the right-of-way or easement.
3. The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
4. Following review and analysis by staff and referral agencies, the Town Manager shall schedule a review of the vacation application by the Town Council.
5. The Town Council shall review each vacation application relative to the applicable approval criteria in this section, and approve, approve with conditions or modifications, or disapprove a vacation request. Any approval or approval with conditions or modifications shall be adopted by ordinance and any disapproval shall be by resolution.
6. The Town Council may condition a decision to vacate a public right-of-way or public easement on reserving any interest the Town Council determines necessary to serve a public purpose or the interests of affected property.

(e) Effect of Decision.

After approval of an ordinance vacating public right-of-way or a public easement, the Town shall record the ordinance, on or after the ordinance's effective date, with the county.

Article 2 – Application Procedures and Review Criteria

Division 1 – General Application Review Procedures

Section 16.2.110. Land use review procedures.

Applications and land use procedures shall be processed in accordance with Table 16.2.110 and this Article 2.

- (a) *Table of review procedures interpretation.* The following list of terms are abbreviated, as listed here, within Table 16.2.110.

PC - Planning Commission

TC - Town Council

BOA - Board of Adjustments

X - Meeting or Action Required

O - Meeting or Action Required at the Direction of the Town

H - Public Hearing is Required

R - Review and Recommending Authority

D - Decision Making Authority

A - Appeal of Decision

Table 16.2.110 – Land Use Review Procedures.

Procedure	Eligible Applicants		Neighborhood Meeting	Pre-Application	Review Body				Record Plans	Notification Requirements (see Sec. 16.2.140)		
	Owner	TC			Staff	PC	TC	BOA		Mailed	Posted	Publication
Concept Review	X	X		X	R							
Annexation	X	X	X	X	R	H / R	H / D		X	X	X	X
Land Development Code (Text) Amendment		X			R	H / R	H / D					X
Comprehensive Plan Amendment	X	X	O	X	R	H / R	D			X (specific amend.)	X (specific amend.)	X
Major Subdivision – Preliminary Plat	X		X	X	R	H / R	H / D			X	X	
Major Subdivision – Final Plat	X		O	O	R		D		X	X	X	
Minor Subdivision	X	X		X	D			A	X			
Minor Plat Amendments	X	X		O	D			A	X			
Initial Zoning and Rezoning	X	X	X	X	R	H / R	H / D		X	X	X	X
Site Plan	X		O	X	R	R	D			O	O	
Use by Special Review	X		X	X	R	H / R	H / D		O	X	X	X
Variance	X			X	R			H / D	O	X	X	X
Administrative Adjustments	X			X	D			A	<i>With the formal plan</i>			
Appeals	X	X						H / D				X
ROW Dedication	X	X		O	R		D		X	O		
Easement Dedication	X	X		O	R		D		X	O		
ROW Vacation	X	X		O	R		D		X	X		X (Ordinance)
Easement Vacation	X	X		O	R		D		X	X		X (Ordinance)

PC = Planning Commission
TC = Town Council
BOA = Board of Adjustments

X = Required
O = At the Direction of the Town
H = Public Hearing

R = Review and Recommending Authority
D = Decision-Making Authority
A = Appeal of Decision

Section 16.2.120. General criteria for applications.

(a) Eligible Applicants.

Unless otherwise specified in this Code, applications for review and approval may be initiated by the following entities.

1. The owner of the property that is the subject of the application; or
2. The owner's authorized agent; or
3. The Town Council acting on its' own initiative or through recommendations brought to it by staff or the Planning Commission; or
4. Other entities that have rights provided by law.

When an authorized agent files an application under this Code on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the property has authorized the filing of the application.

When a review or decision-making body initiates action pursuant to this Code, it does so without influencing the approval or denial of the application.

(b) Application Forms.

Applications required under this Code shall be submitted to the Town in a form and format specified by the Town Manager or their designee. The Town is authorized to establish submittal requirements and procedures to ensure all applications can be evaluated for conformance with this Code.

1. *Modification.* The Town Manager or designee may waive or modify certain requirements for specific information at the time of application due to the routine nature of the application or due to the context of the application making the information inapplicable for review against the standards and criteria of this Code.
2. *Supplement.* The Town Manager or designee may require further submittals or information, provided the request is required to evaluate compliance with this Code and/or adopted plans and policies.

(c) Development Review Fees.

1. Fees shall be paid in accordance with the adopted and published Town fee schedule. The fee schedule may be revised and adopted annually by resolution of the Town Council and is available for review at the Town.
2. Applicants shall submit fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters. Development review deposit fees will be charged to applicants for processing, reviewing, and administering applications such as

but not limited to building permits, subdivision plats, rezoning requests, site plans, annexations, sign permits, variances, and all other administrative functions. In addition to the standard fees, the applicant and the owner of the property that is the subject of the application shall be required to pay any actual costs and fees incurred by the Town for review of the application by consultants and staff, including but not limited to engineering, surveying, legal and planning. Such fees shall include the hourly cost for any contracted professionals engaged by the Town for review of the application.

- i. The Town may require a deposit from applicants to offset the Town's costs for review prior to consideration of any application submittal pursuant to this Code. The Town shall not continue the processing of any application for which the applicant or the property owner has refused to deposit the funds to cover the Town's cost of review.

(d) Concurrent Applications.

When a project requires approvals under more than one type of application, the Town Manager or designee may determine that each application may be submitted and reviewed concurrently based on the similarity of information needed and interrelationship between the applications.

1. Subdivision and Site Plan applications may be processed concurrently with annexation and initial zoning applications; however, such applications shall only be given final approval after annexation and initial zoning of the subject property are effective.
2. Site Plans shall only be given final approval after a final plat approval is granted.

(e) Withdrawal of an Application.

1. The applicant may request to withdraw their application. Such request shall be in writing, either digital or print. Annexation applications with an approved resolution initiating annexation proceedings may only be withdrawn subject to approval by the Town Council.
2. After withdrawal, the Town will take no further action on the application.
3. The applicant may resubmit an application which shall be treated as a new application for purposes of review, scheduling, and payment of the application fees.
4. A request for withdrawal of an application from a noticed agenda is subject to the discretion of the decision-making body.

(f) Inactive Application.

If the applicant fails to submit requested application materials within one hundred eighty (180) days of the request, the application shall become void, and the re-submittal of a new application and fees shall be required. The Town Manager may grant no more than two (2) extensions of time to this provision, of no more than six (6) months each, upon a written request by the applicant.

(g) Lapse of Approvals.

Approvals of land use applications shall be null and void and shall automatically lapse if not completed or recorded within the approval time frames established by the procedures of this Code. A lapse of approval is different from vesting as established in statute and specified in Division 2 of Article 1 of this Code. If applicable, the lapse of approval time frames established by the procedures of this Code may be extended only when all of the following conditions exist:

1. The provisions of this Code must expressly allow the extension;
2. An extension request must be filed prior to the applicable lapse-of-approval deadline;
3. The extension request must be in writing and include justification; and
4. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.

Section 16.2.130. Application steps.

This section is intended to outline typical development review steps administered by the Town for both administrative review and public hearing review applications, as identified in Table 16.2.110 under Land Use Review Procedures. This information is not intended to reflect review timeframes or unique aspects of every application, including but not limited to the number of reviews required, situations beyond the Town's control, or individual approval requirements.

(a) Public hearing decision.

The typical workflow for processing an application with public hearings is as follows:

1. Pre-application conference, required unless waived by Town Manager or designee.
2. Concept review by the Town, as requested by the Town or applicant.
3. Formal application submittal and completeness review by the Town.
4. Development application review by the Town.
5. Neighborhood meeting managed by applicant, required unless waived by Town Manager or designee.

6. Application is revised and resubmitted by the applicant and reviewed by the Town.
7. Planning Commission action or recommendation.
8. Town Council action.
9. Recording of approved document(s), if applicable.

(b) Administrative decision.

The typical workflow for processing an administrative application is as follows:

1. Pre-application conference, required unless waived by the Town Manager or designee.
2. Concept review by the Town, as requested by the Town or applicant.
3. Formal application submittal and completeness review by the Town.
4. Development application review by the Town.
5. Neighborhood meeting managed by the applicant, required unless waived by the Town Manager or designee.
6. Application is revised and resubmitted by the applicant and reviewed by the Town.
7. Town Manager or designee action.
8. Recording of approved document(s), if applicable.

(c) Step 1: Pre-Application Conference.

This step provides an informal evaluation of the applicant's proposal and provides an opportunity to familiarize the applicant and the Town with the applicable provisions of this Code, the Town's Comprehensive Plan, and other documents as may be appropriate, including the Town's corridor plans, infrastructure requirements, and any other issues that may affect the applicant's proposal. This step is required for most application types and may be waived by the Town Manager or designee depending on the unique characteristics of the development proposal. When required, the applicant shall submit the information required in accordance with the application and submittal requirements maintained by the Town.

1. The applicant shall submit a request on a form or in a manner approved by the Town. Staff will coordinate a meeting with the applicant once all requested items have been submitted for the discussion.
2. The meeting is an informal discussion of the preliminary development proposal with Town Staff. The application shall submit the required information to facilitate discussion on the following topics:

- i. How the proposal meets the goals of the Comprehensive Plan, or other adopted plans or policies related to the application.
 - ii. The proposed use(s), general site layout, conceptual or anticipated design of the structure(s), and how the project relates to surrounding sites and public spaces.
 - iii. How the project will contribute to the area and further the intent of the existing or proposed zoning district.
 - iv. How the project addresses the applicable review criteria for the proposed development.
 - v. Impacts to infrastructure planning including timing, phasing, or the need for any technical studies or outside agency coordination and review.
 - vi. Necessary public improvements as part of the proposal including but not limited to public and private utilities, sidewalks and/or trails, road improvements, parks, landscaping, or other improvements warranted by the development.
 - vii. Opportunities to improve designs, layout, and overall function to meet Town goals and policies.
3. The informal evaluation provided at the conference is not binding upon the applicant or the Town but is intended to serve as a guide to the applicant in making the development application and advising the applicant in advance of the development application of issues which may be presented to the appropriate decision-making body.
4. After a pre-application conference has been held, an application must be submitted within six (6) months. If an application is not filed within such a timeframe, a new pre-application conference shall be required prior to filing an application, unless waived by the Town Manager or designee.

(d) Step 2: Concept Review.

For a fee, at the request of the Town or an applicant, any applicant may opt to have a more thorough technical review of a proposed land use concept beyond the pre-application conference review. The informal evaluation provided through a concept review is not binding upon the applicant or the Town but is intended to identify major problems which must be resolved, to assess the overall feasibility of the proposal, or to provide additional guidance to the applicant in preparing the development application of issues that may be presented to the appropriate decision-making body. The applicant will be responsible for reimbursing the Town for consultant fees incurred by the Town for such review. Reimbursement must be made as a condition of further review or acceptance of an application (Step 3).

(e) Steps 3 and 4: Application Submittal and Review.

Upon receipt of a development application and payment of the required fee, the Town shall take the following steps:

1. *Completeness Review.* The Town shall determine if an application is complete. An application shall be considered complete if it is submitted in the required form, includes all submittal information specified by the Town Manager or designee, and is accompanied by the applicable application fee(s).
 - i. If an application is deemed complete, it shall be processed for formal review.
 - ii. If an application is determined to be incomplete, the Town shall notify the applicant of the deficiencies. No further processing or review of the application will occur until the deficiencies are corrected as requested and the application is re-submitted.
2. *Additional information.* Town Staff may require additional application-specific information, as necessary and appropriate to evaluate fully whether an application complies with the requirements of this Code.
3. *Referral review.* After determining that a development application is complete, Staff shall distribute the submittal to designated referral agencies for the opportunity to review and comment on an application. Referral agencies include but are not limited to adjacent or other local governments; state agencies; public and private utility providers; ditch companies; school districts; and other special districts such as the fire district. Referral agencies shall provide comments to Town Staff on the application(s) within thirty (30) days of receiving a referral packet, unless otherwise specified by Town Staff in the referral announcement. The applicant is encouraged to meet with referral agencies prior to the end of the referral period. The applicant is required to pay fees assessed by referral agencies.
4. *Staff Review and Comments.* The Town shall coordinate a staff review and may provide the applicant the following information in writing:
 - i. Comments or recommended change(s) based on the review of referral agencies, staff, and comments from any neighborhood meeting(s).
 - ii. Supplemental information required to support the application and address comments or the recommended changes.
5. *Resolution of issues.* Staff shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with written responses addressing all referral and staff comment issues. At the discretion of the Town Manager or designee, referral comments requiring significant

changes to a development application, plan, or proposal may require re-referral to referral agencies.

(f) Step 5: Neighborhood Meeting.

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the developer intends to meet the standards contained in this Code, and to receive public comment and encourage dialogue at an early stage in the review process. Attendance at the meeting by Town Staff is not required.

1. A neighborhood meeting may be required:
 - i. In accordance with Table 16.2.110 - Land Use Review Procedures; or
 - ii. During the review of an application, the Town Manager or designee may require an additional neighborhood meeting in situations where:
 - A. The characteristics of the project are complex and present the potential for significant changes and unanticipated impacts on nearby or adjacent property; or
 - B. The proposal is likely to raise questions or concerns from adjacent property owners, beyond the typical allowances under the zoning district and/or the adopted plans or policies.
2. Neighborhood meeting procedure.
 - i. Timing. In most cases, the Neighborhood Meeting should occur after the applicant has received the first round of referral responses as outlined in this Code, unless otherwise directed by the Town Manager or designee.
 - ii. Responsibility. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed.
 - iii. Notice. The applicant shall post notice on the property and send mailed notice of the neighborhood meeting to property owners. The applicant shall submit an affidavit to the Town affirming that the notice requirement has been met.
 - iv. Summary. The applicant shall prepare a written summary of the neighborhood meeting, including a list of attendees, meeting notes, and a list of comments from the public. The written summary shall be provided to Town Staff prior to the next steps in the review process and shall be included in the case record.
3. No Determination. No official determination or decision regarding the application will be made at the neighborhood meeting.

(g) Step 6: Applicant Resubmits Revised Plans and Supporting Documents.

Following the initial review by the Town and referral agencies and completion of a neighborhood meeting, as applicable, the applicant is responsible for resubmitting revised plans and supporting documents that address comments received from the Town and referral agencies.

1. If the applicant chooses not to address any specific comment(s) or recommended change(s), a written explanation shall be included with the resubmittal that demonstrates a good faith effort to address the issue or justify why the comment was not addressed.
2. Failure to address any comment or recommended change without explanation may be grounds for rejection of the revised application resubmittal.
3. Steps 3, 4, and 6 repeat until the application is deemed ready for the next step in the process by the Town Manager or designee.

(h) Step 7 (Administrative): Town Manager or Designee Action.

For administrative applications, after consideration of the development application, the staff comments, and comments received from other reviewers (if applicable), the Town Manager or designee shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria.

(i) Step 7 (Public Hearing): Planning Commission Recommendation or Action.

For public hearing applications, the Planning Commission may serve in the following two capacities:

1. As a recommending body that reviews the application against the criteria of this Code, adopted plans and policies, and the recommendation of professional staff, and provides a recommendation to the Town Council for approval, approval with conditions, or denial of the application.
2. As a deciding body that reviews the application against the criteria of this Code, adopted plans and policies, and the recommendation of professional staff, and makes a final decision to either approve, approve with conditions, or deny an application.

(j) Step 8 (public hearing): Town Council Action.

For public hearing applications, the Town Council serves as the decision body for certain applications, as specified on Table 16.2.110. Following review of the proposal against the criteria of this Code, adopted plans and policies, and the recommendation of the Planning Commission

(if applicable) and professional staff, the Town Council may approve, approve with conditions, or deny the application, or refer the application back to the Planning Commission for further review.

Section 16.2.140. Public hearing and notification requirements.

(a) Public Hearing(s).

Public hearing(s), if required under this Code, shall be conducted according to the following procedures:

1. A hearing shall be scheduled within a reasonable time as allowed by the schedules of the Town Officials and Staff. The Town Manager or designee is responsible for the scheduling of all public hearings.
2. The hearing shall be open to the public and any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name, address and, if appearing on behalf of a person or organization, the name and mailing address of the person or organization being represented. The decision-maker conducting the public hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious.
3. Continuance of Public Hearing. The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place. All continuances shall be granted at the discretion of the body conducting the public hearing.
4. Record. An audio recording shall be made of all hearings, and transcripts of such hearings may be requested within thirty (30) calendar days of the close of the hearing. Transcripts shall be provided within a reasonable time after deposit of the cost of the preparation of the transcript with the Town.
5. Modification of application at hearing.
 - i. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Council, Planning Commission, or Board of Adjustment (BOA), the applicant may agree to modify his or her application, including the Plans and specifications submitted.
 - ii. Unless such modifications are so substantial or extensive as to materially change the Plans, the hearing body may approve the application with the stipulation that the permit will not be issued until Plans reflecting the agreed-upon changes are submitted to the Town for review and approval as an administrative act.

(b) Notice Requirements.

Notice shall be provided for each application as indicated in Table 16.2.110 and detailed below in Table 16.2.140. The applicant shall be responsible for all costs of such notices.

1. *Annexations.* Annexation notifications shall be completed in accordance with the Municipal Annexation Act, Sections 31-12-101 et seq., C.R.S., as may be amended.
2. *Mailed Notice.* Where mailed notice is required under this Code, the following requirements shall be met:
 - i. *Content.* The mailed notice shall include a description of the proposal; the date, time, and location of the meeting or hearing; and information regarding public comment.
 - ii. *Mailing List.* Where required by statute or this Code, the mailed notice shall be sent to the following groups:
 - A. All record landowners within one thousand (1,000) feet of the outer boundary of the land subject to the application no later than fifteen (15) calendar days before the hearing (unless otherwise specified by state statute or the Town Manager or their designee).
 - B. To other interested property owners, such as mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies no later than fifteen (15) calendar days before the hearing (unless otherwise specified by state statute or the Town Manager or their designee).
 - C. To other parties of interest or referral agencies as determined by the Town Manager or their designee no later than fifteen (15) calendar days before the hearing (unless otherwise specified by state statute).
 - iii. *Affidavit of Compliance.* The applicant shall submit a notarized affidavit affirming compliance with the mailed notice requirements to the Town prior to the meeting or public hearing to which the notice relates. Failure to provide the affidavit for a public hearing shall result in continuation of the public hearing.
 - iv. *Surface Development Notification.* Notices shall be mailed to the mineral estate owner no later than required by state statute, see C.R.S. § 24-65.5-103.
3. *Posted.* If notice by posting of the property is required by statute or this Code, such notice shall occur by prominently posting signs on the property that is the subject of the proposed action. Such signs shall be posted no less than fifteen (15) calendar days prior to the hearing (unless otherwise specified by state statute) and shall be easily legible from the nearest public streets. The sign shall be in the format available from the Town.

- i. **Affidavit of Compliance.** An affidavit affirming that the property was posted within the specified time, and a photograph of the posting on the property, shall be provided as required by the Town.
 - ii. When an applicant has made all reasonable and good faith efforts to maintain posted notice, failure of the posted notice will not be grounds to invalidate the application.
4. ***Published.*** The Town Clerk shall give notice of any public hearing required as follows:
- i. Unless otherwise specified in this Code or as required by state statute or other applicable law, notice shall be given to potentially interested persons not less than fifteen (15) calendar days prior to the hearing by either publishing a notice one (1) time in a newspaper of general circulation in the Town, or on the Town's official website or other publicly accessible website designated by the Town for the publication of legal notices, which shall be accessible through a direct link from the homepage, conspicuously placed.
 - ii. The notice shall state the date, time, and place of the hearing, identify the lot, parcel, or property that is the subject of the application or appeal, and give a brief description of the action requested or proposed. Proof of publication shall be made part of the record at the time of the public hearing.

Table 16-2-140. Notification Timeframes and Requirements.

(See Table 16.2.110 – Land Use Review Procedures for additional information)

The following list of terms are abbreviated, as listed here, within Table 16.2.140.

PC - Planning Commission

TC - Town Council

BOA - Board of Adjustments

PH - Public Hearing

Application Type	Meeting Type	Mailed Notice	Posted Sign	Publication
Annexation	PC (H) TC to set date TC (H) annexation	Owners within 1,000 feet; 15 calendar days prior to PC hearing	15 calendar days prior to PC hearing	Once a week for four (4) consecutive weeks in a newspaper of general circulation; 30 days prior to statutory hearing, per Sec. 31-12-108(2), C.R.S.
Land Development Code (Text) Amendment	PC (H) TC (H)	Not required	Not required	15 calendar days prior to hearing

Comprehensive Plan Amendment	PC (H) TC	Each governing body of territory affected; 15 calendar days prior to hearing	Periodic update: Not required. Specific amendment: 15 calendar days prior to hearing.	15 calendar days prior to hearing
Major Subdivision Preliminary Plat	PC (H) TC (H) PC hearing per Sec. 31-23-215, C.R.S.	Owners within 1,000 feet; 15 calendar days prior to PC hearing	15 calendar days prior to PC hearing	Not required
Major Subdivision Final Plat	TC	Owners within 1,000 feet; 15 calendar days prior to meeting	15 calendar days prior to meeting	Not required
Initial Zoning and Rezoning	PC (H) TC (H)	Owners within 1,000 feet; 15 calendar days prior to hearing	15 calendar days prior to hearing	15 calendar days prior to hearing
Use by Special Review	PC (H) TC (H)	Owners within 500 feet (up to 1,000 feet per Town Manager); 15 calendar days prior to hearing	15 calendar days prior to hearing	15 calendar days prior to hearing
Variance	BOA (H)	Owners within 300 feet (up to 1,000 feet per Manager); 15 calendar days prior to hearing	15 calendar days prior to hearing	15 calendar days prior to hearing
Appeals	BOA (H)	Not required	Not required	15 calendar days prior to hearing
ROW Vacation	TC	Owners of property abutting right-of-way	Not required	15 calendar days prior to hearing
Easement Vacation	TC	Owners of property abutting easement	Not required	15 calendar days prior to hearing
ROW Dedication	TC	Not required	Not required	Not required
Easement Dedication	TC	Not required	Not required	Not required

PC = Planning Commission
TC = Town Council
BOA = Board of Adjustments
(H) = Public Hearing

Division 2 – Review Process for All Application Types

Section 16.2.200. Comprehensive plan amendments.

(a) Purpose.

An amendment to the Town's official comprehensive plan may include any of the following:

1. *Specific amendment.*
 - i. *Comprehensive plan text amendment.* An amendment to the text of the plan.
 - ii. *Comprehensive plan land use amendment.* An amendment to the plan's land use designation for specific properties or transportation system as referenced in the plan. A land use amendment may be necessary in conjunction with rezoning requests and occasionally with annexation requests. A comprehensive plan amendment may be processed concurrently with a related development application at the direction of the Town Manager or their designee.
2. *Periodic update to comprehensive plan.* An amendment to make periodic updates to the comprehensive plan's land use designations, plan framework, plan policies, growth management area, or other major updates to the comprehensive plan, or the adoption of a new or restated comprehensive plan.

(b) Submittal Requirements.

1. Requests for a specific amendment may only be presented by the owner of the real property that is the subject of the requested amendment or the owner's designated representative, Town staff, the Planning Commission, or the Town Council. Requests for periodic updates may be submitted by Town staff, the Planning Commission, or the Town Council.
2. The owner of real property that is the subject of a specific amendment, or the owner's designated representative, shall submit an application and fee.
3. Proposed text amendment, if applicable.
4. Proposed land use amendment, including proposed map amendment, if applicable.
5. Narrative justifying the request for the comprehensive plan amendment and addressing the review criteria in this section.

(c) Review Criteria.

When considering a specific amendment or periodic update to the comprehensive plan, the Town requires an applicant to evaluate and provide justification for the following minimum

criteria. Additional criteria based on the unique characteristics of a request may be required by the Town.

1. The proposed amendment is consistent with the vision, intent, and applicable policies of the comprehensive plan and other adopted plans, policies, and guidelines.
2. The proposed amendment serves a public purpose and will not be substantially detrimental to the surrounding lands.
3. The proposed amendment takes into account the nature and degree of impacts on neighboring lands and takes mitigation measures based on industry best practices and protection of public health, safety, and welfare.
4. The proposed amendment takes into account the nature and degree of impacts on the Town's existing and planned infrastructure and addresses mitigation measures that address public health, safety, and welfare of the Town and its inhabitants.
5. The proposed amendment is necessary to address substantially changed conditions since adoption.
6. The proposed amendment furthers an important policy adopted by the Town.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements apply to requests for specific amendments or periodic updates to the comprehensive plan:

1. Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule a review of the amendment request by the Planning Commission during a public hearing.
2. The Town shall provide written notice of the Planning Commission public hearing at which the proposed amendment to comprehensive plan is to be considered and a copy of the proposed amendment to Weld County and to any county or municipality that is located within three miles of any boundary of the Town, in accordance with C.R.S. § 24-32-3209(2)(a), as amended. Such neighboring jurisdictions may review the proposed amendment and submit comments to the Town prior to the hearing on such amendment by the Planning Commission.
3. The Planning Commission shall hold a public hearing and adopt a resolution by the affirmative vote of a majority of the entire membership of the Planning Commission recommending that the Town Council approve, approve with conditions, or disapprove the proposed amendment.
4. After receipt of the recommendation of the Planning Commission, the Town Council shall approve, approve with conditions, or disapprove the proposed amendment by resolution.

(e) *Effect of Decision.*

Upon approval of the comprehensive plan amendment by the Town Council, the Town shall cause an appropriate revision of the official comprehensive plan document and associated maps to be prepared. If the applicant initiated the request, the applicant shall pay the Town's cost for the preparation of the revision to the comprehensive plan and associated maps. The Town shall make a copy of the updated comprehensive plan, along with any maps and descriptive text, available at Town Hall during regular business hours. The Town Manager or their designee shall arrange for the filing of the same with the Division of Local Government in the Colorado Department of Local Affairs.

Section 16.2.205. Land development code (text) amendments.

(a) *Purpose.*

The Town Council, Planning Commission, or Town staff may initiate amendments to the text of these regulations. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description thereof, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.

(b) *Review Criteria.*

A text amendment shall be reviewed according to the following criteria.

1. The amendment furthers the purposes of the Code.
2. The amendment improves the efficiency and effectiveness of administering the Code.
3. The amendment is consistent with the Comprehensive Plan and other adopted plans and/or policies.
4. The amendment incorporates innovations in land use and development practices that were not envisioned at the time the Code was written.
5. The amendment promotes the public health, safety, and welfare of the Town's residents.

(c) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to text amendment requests:

1. Requests may run concurrently with a related Comprehensive Plan or other adopted plan amendment if the amendment or plan has met the legal and policy requirements for approvals independently of the proposed code amendment.
2. Amendments require the recommendation of the Planning Commission to the Town Council.
3. The Town Council may refer the request back to the Planning Commission for further review or request additional information prior to acting on the request.

(d) Effect of Decision.

Amendments to the text of this Code shall be approved by the Town Council as an ordinance and be effective after the date specified in the ordinance. The Town shall incorporate the approved amendments into this Code.

(e) Annual Review.

Town staff may provide a summary report of any formal issues, concerns, or suggested updates regarding this Code to the Planning Commission for review and consideration on an annual basis or as needed. The Planning Commission may direct action, additional research, or investigation into elements of this Code that may need modified. The intent of the annual review is to provide an opportunity to keep the Code current and ensure its viability and responsiveness over time.

Section 16.2.210. Annexation.

(a) Purpose.

Annexation is a discretionary, legislative act. Accordingly, the town shall never be compelled to annex, unless otherwise required by state law, even if all annexation requirements have been satisfied. The purpose of this Section is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the Municipal Annexation Act of 1965, Sections 31-12-101 et seq., C.R.S. (hereafter referred to as "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 this Code. In the event of a conflict between the Act,

the provisions of this Section, or any requirements set forth in other portions of this Code, it is the expressed intent of the Town Council that the more stringent provision shall control.

(b) Submittal requirements.

An annexation application is necessary for the Town to evaluate the impacts on the Town of annexing the property identified in the application and negotiating an annexation agreement. Application. The applicant shall submit a letter of intent, application form, annexation plat, related fees, and supporting documents that may include plans, reports, and studies provided by the applicant consistent with the application checklist requirements available through the Town and as discussed during the pre-application conference. An incomplete submission shall not be processed nor referred to the Town Council for a determination of substantial compliance. The annexation application shall include the following minimum requirements.

1. A complete land use application form and checklist with appropriate fees paid.
2. The written letter of intent shall serve as a cover letter to the formal petition, introducing the applicant to the Town Council, requesting annexation of the petitioner's property and describing the development plans for the property if it is annexed.
3. The applicant shall submit a petition for annexation that complies with the requirements of Section 31-12-107, C.R.S. The Town will provide the applicant with the standard form of this petition.
4. The annexation plat drawing shall comply with the technical drawing requirements of the Town. The plat shall be accompanied by a metes and bounds legal description of the property.
5. The applicant shall submit proof of ownership in the form of a current ownership and encumbrances report issued by a title insurance company licensed by the State, whose effective date shall be less than thirty (30) days prior to the date of submittal of the annexation petition. Ownership must match the ownership listed in the petition. If the legal description of the area to be annexed as shown on the annexation map does not match the legal description of the property owned because of road rights-of-way or other reasons, then the title policy must certify that the property owned is wholly contained within the described area on the annexation map. If the applicant is not the owner, there shall be provided a notarized affidavit by the owner stating that the applicant is authorized by the owner to make application for annexation.
6. The applicant shall provide a copy of the prior year's property tax statement and paid receipt for all property to be annexed.
7. If zoning is requested simultaneously with annexation, the petitioner must submit a completed zoning application form, including a zoning map, for the property. If zoning is approved, the applicant must amend the official zoning map and pay all application, mapping, and recording fees. If zoning is not requested simultaneously with annexation,

the property is required by statute to be brought under compliance with this Code and the zoning map within ninety (90) days of the completion of the annexation process.

8. The application is to be accompanied by a narrative report assessing the effect of the proposed annexation upon the community and existing service and facilities. It shall detail the need for any expansion of those services and facilities to accommodate the development proposed for the property being annexed. The narratives shall be one (1) or more paragraphs in length and shall be adequate to fully explain the needs, concepts, and proposed solutions for each of the following:
 - i. The economic impact to the community.
 - ii. The impact on schools, including an estimate of the number of students to be generated by development of the property.
 - iii. The anticipated sources of water, sanitary sewer, and other utilities to be used to serve the property and the impact on the water and sanitary sewer systems anticipated to serve the property.
 - iv. The impact on the existing transportation system.
 - v. The compatibility of the proposed development with the Comprehensive Plan and any plan amendments that may be necessary for the proposed development.

A review of existing and adjacent land uses, areas of compatibility or conflict and possible mitigation measures that may be required for the proposed development.

(c) Review Criteria.

The Town shall evaluate annexations according to the following criteria:

1. The annexation complies with the Municipal Annexation Act of 1965, as amended (Sections 31-12-101 et seq., C.R.S.).
2. The proposed annexation complies with the Comprehensive Plan goals and objectives, other adopted plans and policies, and any other relevant information in determining whether it is in the best interests of the Town to grant or deny the petition for annexation.
3. The proposed annexation promotes geographical balance of the Town's land use pattern.
4. Adequate facilities and services are or will become available to support the current or future development within the annexation area. Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town in order for the public needs to be served by such facilities (including but not limited to

streets, bridges, public parks and recreation areas, water and sanitary sewer facilities, school sites, fire and police station sites and storm drainage facilities).

5. The annexation shall be shown not to create any additional cost or burden on the then-existing residents of the Town.
6. The applicant has demonstrated that the proposed annexation follows all pertinent intergovernmental agreements to which the Town is a party.
7. The applicant acknowledges and agrees that it is the applicant's responsibility to apply for exclusion from any applicable special districts.
8. The proposed annexation is needed to accommodate future land use requirements.
9. Unless otherwise agreed to, the landowner has waived in writing any preexisting vested property rights as a condition of annexation.

(d) Review Procedures.

In addition to the specific notice and review procedures required by state statutes at the time of annexation, and in accordance with the general procedures section of this Code, the following specific procedures apply to annexations:

1. Pre-application. Annexation pre-application conference with Town staff to determine the feasibility of the annexation request. The applicant may opt for a concept review for a more in-depth review of proposed plans.
2. Petition. A petition for annexation shall be submitted to Town staff, along with the annexation application items required by this Section and documentation of the supporting the eligibility of the property to be annexed according to the requirements set forth in the Article 31, The annexation petition shall be signed by more than fifty (50) percent of the landowners in the area and owning more than fifty (50) percent of the land area of the proposed annexation.
3. Eligibility hearing. Upon staff's determination that the petition and supporting documentation are complete and in compliance with C.R.S. and this Code, staff shall refer the petition to Town Council. The Town Council shall take the appropriate steps to determine if the petition is in substantial compliance with C.R.S.
 - i. If the petition is found to be in substantial compliance with C.R.S. and this Code, the Town Council may set the annexation and zoning for public hearing on a specified date, time, and place, not less than thirty (30) days nor more than sixty (60) days from the effective date of the resolution.
 - ii. If the petition is found not to comply with C.R.S. and this Code, no further action shall be taken except that the determination shall be made by resolution of the Town Council.

4. Notice. The published and posted notice of the public hearings shall be provided as required by Sections 31-12-101 and 31-12-108 et seq., C.R.S., as amended.
 - i. Notice of the public hearing for annexation set by the resolution of substantial compliance shall be published and given to the county and to any special district or school district having territory within the area to be annexed in accordance with State law.
 - ii. A copy of the published notice, together with the letter of intent provided with the application and the annexation maps, shall be sent by the Town by U.S. mail to the owners of real property, irrigation ditch companies whose rights-of-way traverse the property to be annexed and to the mineral estate owners and their lessees of the property to be annexed, as outlined in Section 16.2.140 of this Code. Notice provided by the Town to the owners of the mineral estate and their lessees shall not relieve the petitioners of the responsibility to provide notice as required by Sections 24-65.5-101 et seq., C.R.S. In the case of a "flagpole" annexation, the Town shall also provide notice to abutting property owners as specified in Section 31-12-105, C.R.S.
 - iii. *Notice to mineral estate owners and lessees.* Upon notice of complete application by Town Staff, the petitioner shall be responsible for providing notice of each public hearing (Planning Commission and/or Town Council) to the owners of the mineral estate on the property to be annexed and to their lessees, as required by Sections 24-65.5-101 et seq., C.R.S. The petitioner shall certify to the Town the petitioner's conformance with this notice requirement, not less than fifteen (15) days prior to the date of the public hearings.
5. An annexation impact report conforming to Section 31-12-108, C.R.S., is required for areas of ten (10) or more acres and will be completed by the Town with information provided by the applicant.
6. The annexation assessment report is necessary for the Town to evaluate the feasibility and impacts of the proposed annexation on the Town's infrastructure, 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 Comprehensive Plan; sources of revenue from the property; the Town's costs to serve the proposed development and other related matters.
7. Planning Commission review and recommendation
 - i. The Planning Commission shall review, as a public hearing, the annexation application at a regular or special meeting to be held prior to the date of the public hearing before the Town Council. The Planning Commission will make a recommendation by motion to the Town Council regarding the overall annexation of the property to the Town. The Planning Commission motion may

be to recommend approval, approval with conditions or denial of the annexation.

- ii. At this same hearing, the Planning Commission may review the requested zoning of the property. Notice of the Planning Commission review of zoning shall be given in accordance with the requirements for an amendment to the zoning map. The Planning Commission shall recommend to the Town Council approval with or without conditions or recommend denial of the requested zoning.

8. Town Council public hearing and action on the annexation.

- i. The Town 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. The Town Staff shall testify 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 Town Council. The Town Council may continue the hearing to another date without additional notice as provided by applicable law. At the conclusion of the public hearing, the Town Council shall adopt a resolution containing the findings of fact and conclusions, including:
 - A. Whether the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and this section have been met.
 - B. Whether additional terms and conditions are to be imposed.
 - C. Whether an election is required, either as a result of a petition for election or the imposition of additional terms and conditions.
- i. If the Town Council finds that the area proposed for annexation does not comply with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., the annexation proceeding will be terminated.
- ii. If the Town Council finds the following, then the Town Council may annex the land by ordinance without election and approve any annexation agreement. The zoning of the property, if requested with annexation, shall be approved by separate ordinance:
 - A. The annexation complies with the requirements of Sections 31-12-104 and 31-12-105, C.R.S., and the provisions of section 30 of Article II of the Colorado Constitution."
 - B. An election is not required under Section 31-12-107(2), C.R.S., or Section 30(1)(a) of article II of the Colorado Constitution.

C. No additional terms and conditions are to be imposed.

(e) Effect of Decision.

Town action on the annexation application shall not become final unless all requirements of the annexation ordinance and state statutes have been satisfied, as certified by the Town Manager. When all requirements have been satisfied, the ordinance, the annexation agreement, and the annexation map shall be recorded with the Weld County Clerk and Recorder.

(f) Three-Mile Plan.

The Severance Comprehensive Plan shall serve as and shall constitute the "plan in place" referenced in Section 31-12-105(1)(e), C.R.S., unless a different plan, supplement or revision is expressly adopted to serve as a plan in place. The plan in place may also be commonly referred to as the "Three-Mile Plan" and such plan shall be deemed automatically updated annually on January 1 of each year without further action by the Town unless a change or modification is necessary and is adopted by resolution or ordinance by the Town Council. The absence of a specific reference in such plan to a particular parcel of land proposed for annexation shall not be interpreted as a statement of intent to not annex such parcel of land; it is the plan and intent of the Town Council to evaluate and to consider for potential annexation all property within three (3) miles of the Town's then-existing municipal boundaries upon submission of a petition or as otherwise permitted by this Article and the Municipal Annexation Act of 1965. The absence in the plan of a specific reference to any character or extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities and terminals for water, light, sanitation, transportation and power to be provided by the Town, and the proposed land uses for the area shall not be interpreted as a failure to comply with Section 31-12-105(1)(e), C.R.S., but shall be interpreted as a plan by the Town to determine the appropriate character or extent of land uses and services through the Town's applicable processes of annexation, planning and development approvals on a case-by-case basis. The plan in place may also be amended or modified to identify the character or extent of land uses and services more specifically at any time or contemporaneously with any annexation.

(g) Water resources required at annexation.

All surface and sub-surface water rights appurtenant to or underlying the territory to be annexed shall be dedicated and conveyed to the Town as a condition to approval of the annexation. The Town Council in its sole discretion may require either: (1) The annexation agreement contain terms allowing the dedication and conveyance to be delayed until approval

of a final plat for a subdivision or similar final approval for a development not requiring a subdivision; or (2) The severance of ownership or control of the appurtenant water rights from the annexed property shall preclude its annexation. The Town may also require as a condition of annexation the dedication and conveyance of all supplemental water resources in such amounts as necessary to support full development of the territory to be annexed.

1. The Town Manager shall administratively approve the required deed form and title assurances for the conveyance of all water rights to the Town. Such conveyance shall require, at a minimum, the warranty of title given by the grantor in a special warranty deed. The grantor shall provide Town with an opinion of title from a qualified water rights attorney that grantor has good and marketable title to the water rights. All reasonable costs incurred by the Town in reviewing the opinion shall be borne by the grantor. The annexation agreement and/or deed shall provide that, in the event it is determined after the recordation of the deed that the deed did not vest in the Town marketable title to the water rights, the development entitlements granted in reliance on the dedication shall be suspended until the title defect is cured or alternative water rights are conveyed to and accepted by the Town in accordance with this Code.
2. It shall be the responsibility of the landowner, at their sole expense, to obtain a final decree to any water rights, or for approval of an augmentation plan for not-non-tributary groundwater, prior to conveyance to the Town. Under special circumstances, as determined by the Town Council in its absolute discretion, the Town may participate in such adjudications or accept un-adjudicated groundwater, provided that the cost of adjudication and yield from the subsequent adjudication are addressed in the applicable development agreement or annexation agreement.

(h) Payments.

The Town may require as a condition of annexation the payment of additional amounts by the petitioners or others deemed necessary, beneficial or advantageous by the Town, including but not limited to payments to offset anticipated costs or expenses of providing services to the annexed property or residents of the annexed area, to mitigate anticipated impacts to the annexed area or to surrounding lands, to upgrade infrastructure within the Town, or to defray any costs or expenses of the Town.

(i) Annexation agreement.

Except for Town-owned property, Town-initiated annexation of enclaves, annexations upon election, or when waived by the Town Manager, an annexation agreement is required for all annexation applications and before the annexation may be approved. The Town will provide the applicant with a draft agreement to review and finalize as part of the development review process. The annexation agreement in a form approved by the Town Attorney must be executed

by the property owner(s) prior to scheduling the public hearings on the annexation proceedings. The annexation application is reviewed and considered by the Town Council as part of the overall annexation request.

Section 16.2.215. Initial zoning and rezoning.

(a) Purpose.

The procedure for establishing or changing the boundaries or area of any zone district, or for establishing or changing the zoning classification of any parcel of land within the Town, as shown on the official zoning map of the Town shall be as provided in this Section. An official map amendment may be necessary to:

1. Establish initial zoning with an annexation application;
2. Correct a manifest error in an ordinance;
3. Implement the Comprehensive Plan goals and policies;
4. Implement a change in the regulations and restrictions of an area;
5. To account for changed or changing conditions in a particular area or in the Town generally; and/or
6. To reflect or implement a change in public policies with respect to development.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested zoning or rezoning request. Include documentation and rationale for the zoning or rezoning request based on the review criteria of this section.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A zoning map drawing in a format as required by the Town and meeting the Town's minimum standards, as may be amended, including but not limited to:
 - i. Full extent of the property boundaries, consistent with the associated subdivision plat boundaries and descriptions.
 - ii. Existing and proposed zoning of all properties associated with the zoning or rezoning request.
 - iii. Existing zoning of adjacent properties.

(c) Review Criteria.

No application for rezoning of property shall be approved unless it is demonstrated:

1. The proposed zoning bears a reasonable relationship to the general welfare of the community; and
2. At least one of the following additional factors exists:
 - i. The proposed zoning is consistent with or promotes the goals and/or policies of the Comprehensive Plan, and any other applicable Town adopted plans and/or policies; or
 - ii. If the proposed zoning would be in conflict with the goals or policies of the comprehensive plan, the proposed rezoning demonstrates an improvement over the existing zoning in implementing the goals or policies of the comprehensive plan; or
 - iii. The property to be rezoned was previously zoned in error; or
 - iv. There has been a material change in the character of the neighborhood or in the Town, such that the proposed zoning would be in the public interest and consistent with the change; or
 - v. The proposed zoning serves a community need or amenity that was not considered at the time of the initial zoning of the property.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to rezoning applications:

1. The application shall include a written statement describing the proposal and addressing the following points:
 - i. Rationale for the proposed rezoning.
 - ii. Present and future impacts on the existing adjacent zone districts, uses and physical character of the surrounding area.
 - iii. Impact of the proposed zone on area access and traffic patterns.
 - iv. Availability of utilities for any potential development.
 - v. Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools, and transit.
 - vi. The relationship between the proposal and the Comprehensive Plan.
 - vii. Public benefits arising from the proposal.

- viii. The applicant shall provide contact information to the Town with mineral interest owners of record, mineral and oil and gas lessees for the property, and appropriate ditch companies.
2. The application is encouraged to be accompanied by an illustrative site plan. The illustrative site plan is intended to supply enough information about the development for the Town Staff to evaluate and for the Town Council to make a decision on the rezoning application. The information to be supplied will be determined by the Town Manager as part of the pre-application review but should indicate the feasibility and design characteristics of the development potential of the property.
3. Applications for rezoning may run concurrently with related development applications at the direction of the Town Manager.
4. Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule review of the rezoning request by the Town Council during a public hearing.
5. The Town Council shall hold a public hearing and make a final decision on the rezoning application by ordinance.

(e) Effect of Decision.

Upon approval of a rezoning request to the official zoning map by the Town Council, the Town shall cause an appropriate revision of the official zoning map to be prepared. If the applicant initiated the rezoning request, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map. The Town shall record a copy of the official zoning map amendment with the County.

(f) General rezoning of the Town.

Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description thereof, and the notice to and listing of names and addresses of owners of real property in the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection with the Town for fifteen (15) days prior to the public hearing on such amendments.

(g) Zoning of annexed territory.

The procedure for the initial zoning of property annexed or to be annexed to the Town shall follow, to the extent practicable, the procedures applicable herein to rezonings. In such

circumstances, the zoning procedures may be instituted at any time after a resolution of intent to annex is adopted pursuant to C.R.S. § 31-12-106, as amended, or after a petition for annexation or a petition for annexation election has been found to be valid in accordance with C.R.S. § 31-12-107, as amended

1. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.
2. Any area annexed shall be initially zoned by the Town within ninety (90) days from the effective date of the annexation ordinance, despite any legal review that may be made challenging the annexation. During such ninety (90) day period, or such portion thereof as is required to zone the territory, the Town shall not issue a building permit for any portion(s) of the newly annexed area.

Section 16.2.220. Minor subdivision.

(a) Purpose.

Minor subdivisions establish or alter legal boundaries of parcels consistent with the Town's regulations and design criteria of this Code, but do not significantly alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers. The Town Council expressly delegates and grants to the Town Manager the authority to review and approve through the administrative process lot line adjustments and minor subdivisions, as defined by this Code. The authority granted and delegated hereby shall include the authority to execute and file with the office of the county clerk and recorder a subdivision plat conforming to the requirements of this Section. The authority granted and delegated hereby is subject to the following conditions and limitations:

1. The alteration or creation of legal boundaries for five (5) or fewer lots, blocks, tracts, and/or outlots;
2. The resulting lots can be served by municipal services through existing public improvements or through the construction of public improvements;
3. The resulting lots meet the minimum lot size requirements of the zone district in which the lots are located;
4. The lot line adjustment or minor subdivision is not being utilized to circumvent the regular process of review or other provisions of the subdivision design standards, particularly as it pertains to the number of lots created by the process itself, the impacts of the development or improvements, or in conjunction with other lot line adjustment or minor subdivision applications;
5. The establishment of land as a condominium common interest community, as defined in the Condominium Ownership Act, or the Colorado Common Interest Ownership Act, as appropriate; and

6. The establishment of zero lot line townhouse and small lot detached developments, as defined in this Code, and that do not exceed five (5) acres in aggregate size or involves the creation and dedication of any public rights-of-way to the Town.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

5. A complete land use application form and checklist with appropriate fees paid.
6. A written letter of intent for the requested minor subdivision.
7. Property documentation and proof of ownership, in a form acceptable to the Town.
8. A minor subdivision plat meeting the requirements of this Code. The plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to:
 - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
 - v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
9. Engineering reports and studies, as appropriate and as requested by the Town, which may include drainage, utility, and soils/geotechnical reports prepared by a registered professional engineer and meeting all applicable engineering standards and specifications adopted by the Town.
10. Supporting materials as determined by the Town.

(c) Review Criteria.

The Town Manager shall approve a lot line adjustment or minor subdivision if it meets the following criteria:

1. As applicable, the minor plat or lot line adjustment complies with all applicable use, development, and design standards set forth in this Code;
2. As applicable, the minor plat or lot line adjustment is consistent with the terms and conditions of any previously approved development plan;
3. Existing or proposed utility facilities and services within the service area for the proposed subdivision are currently or will be adequate to meet the expected impact on and use of utility facilities and services by all possible uses of the proposed subdivision, and such uses will not compromise the overall operation of the applicable Town utility enterprise or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider; and
4. The plat will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

(d) Review Procedures.

In addition to the specific review procedures required in accordance with the general procedures section of this Code, the following specific procedures apply to minor subdivision applications.

1. The Town Manager shall review each lot line adjustment application or proposed minor plat relative to the applicable approval criteria.
2. If the Town Manager determine at any point in the process that the application is no longer eligible to continue or does not meet the criteria as a minor subdivision, the Town Manager may deny the application or allow the applicant to reclassify as a preliminary subdivision according to additional required information or fees.
3. All construction plans for subdivision-related public improvements shall be referred to the Town Engineer, Director of Public Works, and applicable utility providers for review and approval.
4. After staff and referral agency review, and any necessary resubmittals to address all outstanding review comments, the Town Manager shall act to approve, approve with conditions, or deny the lot line adjustment application or proposed minor plat. The Town Manager shall make a final decision on the lot line adjustment plat or minor plat.

(e) Effect of Decision.

If the minor subdivision is approved, the Town shall have the signed plat recorded with the County. A recorded minor subdivision shall create a vested property right for two years as specified in the vested property rights section of this Code, unless otherwise specified in a fully executed agreement.

Section 16.2.225. Minor plat amendment.

(a) Purpose.

The Town Manager may approve minor amendments to approved plats, which shall be recorded and shall control over the preceding non-residential plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

1. Correct an error in a course or distance shown on the preceding plat;
2. Add a course or distance that was omitted on the preceding plat;
3. Correct an error in a real property description shown on the preceding plat;
4. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
5. Correct an error in courses and distances of lot lines between two (2) adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the owners of the plat.
6. Relocate a lot line to eliminate an inadvertent encroachment of a building, structure, or other improvement on a lot line or easement; or
7. Relocate or remove one or more lot lines between one or more adjacent lots if all of the following have been met:
 - i. The owners of all those lots join in the application for amending the plat;
 - ii. Lots must be combined so that no lot is created as a non-conforming lot, and no existing non-conforming lot remains; and
8. The amendment does not attempt to remove recorded covenants or restrictions.
9. Add one (1) lot line between two (2) adjacent lots if, at the Town Manager's discretion, the lot line does not alter the character of the subdivision nor adversely affect the functions of transportation, utilities, drainage, and other services and providers.

Section 16.2.230. Major subdivision overview.

(a) Purpose.

The purpose of the major subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in this Code, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive Plan.

(b) Applicability.

1. General. The procedures of this Section, and the standards and requirements set forth in this Code, shall apply to all that are not lot line adjustments or minor subdivisions, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the state or Town, unless specifically excluded by state statute.
2. Subdivision approval is a prerequisite to other approvals. Except with respect to property which is platted as a lot or part of a subdivision approved in accordance with the provisions of this Code (or prior law, if applicable), no building permit or certificate of occupancy shall be issued for any of the following and no person shall perform any of the following:
 - i. Construction of any new principal building or structure;
 - ii. Enlargement of any principal building used for nonresidential purposes by more than twenty-five percent (25%) of the existing floor area of such building; or
 - iii. An act which changes the use of any building.

(c) Restriction on sale or transfer of subdivided land without an approved plat.

Any person who transfers or sells any land located within the Town by reference to a plat that has not been approved by the Town and recorded by Weld County shall be guilty of a violation of this Code. The Town also may enjoin such transfer or sale by filing an action for an injunction.

(d) Construction work.

No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat; however, the subdivider may undertake certain ground excavations for grading and drainage purposes if the Town Engineer issues the proper permits, and/or Public Works Department, at the subdivider's risk.

(e) Public improvements required.

Subdivisions may require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed development will be served by adequate water, sewer, and storm drainage facilities. Necessary improvements shall be required as a condition of approval. Applicants shall be required to pay for and construct all on-site and off-site public improvements and common facilities that are required to adequately serve the proposed development or are deemed necessary to address the impact caused by the proposed development. Payment for and construction of such on-site and off-site public improvements and common facilities shall be a condition of the approval of a final plat. Public improvement and security requirements are found in Article 3 of this Code.

(f) Subdivision agreement.

The public improvements and common facilities required to be paid for and constructed as part of the proposed development shall be governed by a separate development agreement pursuant to Article 3 of this Code. The Mayor or other authorized Town representative shall sign any related subdivision agreement.

(g) Improvements guarantee.

The subdivider shall provide any required guarantee to the Town Clerk prior to the recording of the final plat unless otherwise authorized by the Town Council. Improvement guarantees shall be in a form specified and subject to the requirements and conditions detailed within this Code, the Town's Standards and Specifications, and the approved and executed subdivision agreement.

Section 16.2.231. Preliminary plat.

(a) Purpose.

The preliminary plat application is the first step in the major subdivision process, followed by the final subdivision application as outlined in this Code. The preliminary subdivision process provides a detailed planning review of development patterns, street networks, block and lot layout, and preliminary engineering for future development prior to the preparation of detailed construction and engineering plans.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested preliminary subdivision plat and documentation addressing compliance with the Town's adopted plans.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A preliminary subdivision plat meeting the requirements of this Code. The preliminary plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to:
 - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
 - v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
 - vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
5. Preliminary subdivision engineering and technical reports and studies, as required and requested by the Town (see Final subdivision plat submittal requirements), including but not limited to:
 - i. Preliminary water, non-potable, sanitary sewer, and drainage analysis and reports.
 - ii. Preliminary grading and drainage plans following the Town's adopted specifications, or as directed by the Town Engineer.
 - iii. Preliminary water, non-potable, and sanitary sewer plans following the Town's adopted specifications, or as directed by the Town Engineer.

- iv. Additional studies and reports may be required based upon the unique requirements or needs of the Town to review the proposal adequately.
- 6. Preliminary landscape and open space plan that addresses treatment of all exterior spaces. See the final subdivision plat submittal requirements for a breakdown of the required landscape plan details.

(c) Review Criteria.

A preliminary plat for a subdivision shall be reviewed according to the following criteria:

- 1. *Master Plan Compliance.* The subdivision furthers the following planning objectives:
 - i. The proposal promotes the Town's adopted plans, goals, and policies;
 - ii. Proposed residential development adds diversity to the Town's housing supply;
 - iii. Proposed commercial development will benefit the Town's economic base;
 - iv. Parks and open space are incorporated into the site design;
 - v. The proposed project protects the Town's environmental quality; and
 - vi. The development enhances cultural, historical, educational, and/or human service opportunities.
- 2. The proposed land uses within the subdivision conform with the existing or proposed zoning.
- 3. The subdivision complies with all applicable use, development, and design standards set forth in this Code that have not otherwise been modified or waived pursuant to this Code.
- 4. *Mitigated impacts and no creation of burden.* Negative impacts on adjacent land uses have been identified and satisfactorily mitigated. The subdivision will not create lots that are undevelopable or that are burdened with costs that would preclude development from occurring on other property.
- 5. *Grading and drainage.* The preliminary grading and drainage plan and report:
 - i. Indicates the stormwater management facility design for the proposed development adequately addresses all stormwater management and stormwater impacts anticipated to result from the proposed development (whether on site or off-site);
 - ii. Indicates that the proposed stormwater management facility design has considered the drainage basin as a whole and maintains the historic drainage path within the basin;
 - iii. Indicates that the proposed stormwater management facility design can safely convey storm water runoff to an adequate storm drainage system and

accessible point of disposal with sufficient system capacity to carry not only the necessary flow of the proposed development but also, where applicable, the runoff from those areas adjacent to and upstream from the proposed development itself, without overflowing downstream channels and existing storm drainage facilities or causing damage to downstream properties; and

- iv. Demonstrates that stormwater runoff from the proposed development will not conflict with other land uses or negatively impact lands downstream, nor will it impair or disrupt any existing floodways and/or floodplains, both on and adjacent to the site or the functioning of other utility systems, both on and adjacent to the site.

6. *Water resources.* The preliminary water and sewer plan and study:

- i. Indicates the proposed water, non-potable and sewer systems for the proposed development can be feasibly connected to the applicable Town utility enterprise system or other utility service provider's utility system;
- ii. Indicates the proposed water, non-potable and sewer systems for the proposed development conform to the Town's Water, Sewer, and/or Non-potable Water Master Plans, where applicable; and
- iii. Confirms that there will be adequate resources, facilities, and utility systems to adequately support and serve the proposed development together with existing development and development which is probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).
- iv. The amount of unused capacity of existing utility facilities and services, including without limitation, water, non-potable water, sanitary sewer, presently available to serve the proposed development, while maintaining sufficient and acceptable levels of service to existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued). The Town Engineer shall be responsible for completing and presenting a capacity assessment for the proposed development to the decision-maker, and the applicant shall be furnished a copy of such assessment in advance.
- v. The recommendations of the Town Engineer and/or other agencies, together with any supporting analysis or other information presented, regarding the available capacity of the water, non-potable water, sanitary sewer, and storm drainage utility systems that will be impacted by the proposed development, and whether existing utility facilities and services are presently available to, and adequate to serve, the proposed subdivision.

7. *Other utility capacity.* Existing or proposed utility facilities and services within the service area for the proposed subdivision are currently or will be adequate to meet the

expected impact on and use of utility facilities and services by all possible uses of the proposed subdivision, and such uses will not compromise the overall operation of the applicable Town utility enterprise or other utility service provider or the quality of service to be provided to existing customers of the applicable Town utility enterprise or other utility service provider.

8. *Transportation.* The transportation designs are adequate and meet the standards set by the Severance Transportation Master Plan and the Severance Construction Standards given existing and planned capacities of the Town's municipal street system.
9. *Easements.* The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.
10. *Phasing.* As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

(d) Review Procedures.

Review of the preliminary plat shall follow the general procedures in Division 1 of this Article.

(e) Effect of Decision.

1. Approval of the preliminary plat does not constitute approval of the final plat.
2. The preliminary plat shall not be recorded.
3. The preliminary plat shall not be used for the purpose of selling or transferring interests in real estate, which is a violation of state statute per Section 31-23-216, C.R.S.
4. Approval of a preliminary plat shall be effective for two (2) years.
5. *Extensions.* The Town Council may, at the request of the applicant, extend its approval an additional year without the submission of a new preliminary plat, provided no development or change in requirements has occurred that would affect the proposed subdivision. No extensions of approval shall be granted more than once. Extension of a preliminary subdivision approval is at the discretion of the Town Council.
6. An approved preliminary plat shall lapse and be of no further force and effect if a complete final plat application for the subdivision or a phase of the subdivision has not been submitted within two (2) years after the approval date of the preliminary plat or within the Town Council approved extension period.
7. *Phased final plats.* In the case of partial final plat submission or subsequent partial final plat submissions, the approval of the remaining portion of the preliminary plat shall automatically gain an extension of one (1) year with each final plat filing.

Section 16.2.232. Final plat.*(a) Purpose.*

The purpose of a final plat review is to ensure that a proposed subdivision complies with this Code, the regulations of affected utility providers and the approved preliminary plat, while accurately depicting property boundaries, easements, and infrastructure; to provide a process to review the construction of public improvements; and ultimately for safeguarding the public health, safety, and welfare in the development. Review of the subdivision prior to recording the final plat ensures proper final engineering subdivision design and legal requirements to accurately represent real estate interests. The final plat is used for dedication of lands required for public use.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested final subdivision plat.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A final subdivision plat meeting the requirements of this Code. The final plat shall comply with the Town's minimum standards, as may be amended, including, but not limited to:
 - i. The plat shall be prepared by or under the direct supervision of a registered land surveyor, shall be signed and stamped by said surveyor and shall meet applicable state requirements.
 - ii. Except for parcels separated by public rights-of-way, public tracts or railroads, parcels not contiguous with each other shall not be included in one (1) plat, nor shall more than one (1) plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.
 - iii. Lengths shall be shown to the nearest hundredth of a foot, and bearings shall be shown in degrees, minutes and seconds.
 - iv. The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a description of monuments. The survey shown shall not have an error greater than one (1) part in ten thousand (10,000).
 - v. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.

- vi. Names and signatures of all owners of equitable interest in the property shall be on the plat and shall be made in black drawing ink.
- 5. Final subdivision engineering and technical reports and studies, as required and requested by the Town, including but not limited to:
 - i. Final water report including hydraulic analysis and pipe sizing calculations.
 - ii. Final sanitary sewer report including hydraulic analysis and pipe sizing calculations.
 - iii. Sewage collection and water supply distribution plans, profiles, and specifications prepared by a registered professional engineer and shall be accompanied by written approvals from the applicable water and sanitation district.
 - iv. Final drainage plans and reports to be submitted in accordance with the Greeley Drainage and Design Criteria, as amended, or as the Town Engineer may approve. The Plan and report must provide:
 - A. Cross-sections of each water carrier showing high water elevations for one hundred (100) year runoff and adjacent features that may be affected thereby.
 - B. Written approvals, as may be required, from other agencies or parties that may be affected by the drainage proposals (i.e., FEMA, Larimer County and Weld County, ditch companies).
 - C. Supporting calculations for runoffs, times of concentration, flow capacity with all assumptions clearly stated with proper jurisdiction when needed or requested.
 - D. Erosion control Plans, when required.
 - E. Sizing of all pipes, inlets, conveyance ways and other appurtenances.
 - v. Final grading plan that illustrates existing and proposed contours and lot and block grading details.
 - vi. Soils report that details pavement design and construction requirements and shall be submitted after overlot grading is complete.
- 6. Final landscape and open space plan that addresses treatment of all exterior spaces. Landscape Plans are to be designed to meet the requirements of this Code and show trees, shrubs, groundcovers, turf, buffering, fences, walls, and other site amenities that will be included in the Plan. All Plant materials must be adapted to the physical limitations of the local climate and specific conditions of the landscape Plan.
 - i. All Plant materials must meet specifications of the American Association of Nurseryman for No. 1 grade.

- ii. All street trees must be selected from the Town's recommended tree list.
 - iii. Landscape plans shall include the minimum requirements as established in Article 3 of this Code, under Landscape Plan Requirements.
7. Construction plans and profiles. The plans and profiles shall be prepared by a registered professional engineer licensed in the State of Colorado and provide the following information, in addition to the development and design requirements of Article 3 of this Code.
- i. The horizontal to vertical scales shall be chosen to best depict the aspects of the design. The minimum horizontal scale is to be 1" = 100'. The minimum vertical scale is to be 1" = 10'.
 - ii. The typical road geometric and structural cross section is to be shown on each plan sheet.
 - iii. The plan must show right-of-way lines and widths, road names, lot lines, tangent lengths and bearings, curve radii, delta angles, curve lengths, chord lengths and bearings, stationing at all beginning of curves and end of curves, intersections, structures, angles, curb lines, cross pans, traffic-control devices (islands, striping, signs, etc.), drive cuts, curb returns and radii and all other features to enable construction in accordance with approved standards and standard engineering practice. Stationing may be centerline if approved by the Town Engineer.
 - iv. Plans shall include water lines and appurtenances, sewer lines and appurtenances, stormwater lines and appurtenances and any other wet utilities such as non-potable water systems and irrigation ditches.
 - v. The profiles shall include existing and proposed grades at curb and gutter or centerline of street elevation at point of intersection of vertical curves, intersections, grade breaks, point of curb return, point of reverse curve and other critical points, structures and all other features required to enable construction in accordance with the standards adopted by this Code.
 - vi. Signature blocks for all utility providers shall be included unless otherwise provided in agreement form.
 - vii. Structure details. Sufficient data shall be given to construction of major structures and road appurtenances, such as bridges, culverts, gutters, drives, walks, cross pans, etc.; detail shall include orientation line and grade, cross-sections, dimensions, reinforcement schedules, materials, quality specification, etc., or as the Town Engineer may approve.

(c) Review Criteria.

The final plat of a subdivision shall be reviewed according to the following criteria:

1. The final subdivision plat is in substantial conformance with the approved preliminary plat, and incorporates all recommended changes, modifications, and conditions attached thereto.
2. All applicable technical standards, including the provision of water of sufficient amount and quality, have been met.
3. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in Article 3 of this Code, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been expressly permitted by the terms of the Preliminary Plat approval.
4. All construction plans for public improvements have been approved by the Town Engineer prior to the Town Council action on the Final Plat.
5. The applicant has either installed all required public improvements or has executed a subdivision agreement.
6. The applicant has paid or satisfied all applicable fees and charges.

(d) Review Procedures.

In addition to the specific review procedures required in accordance with the general procedures section of this Code, the following specific regulations apply to final subdivision applications:

1. *Concurrent review.* The applicant may proceed with the preparation of the final plat and other documents to be submitted with the application simultaneously with, or following approval of, the preliminary plat at the risk of the subdivider. No final action shall be taken on a final plat until the corresponding preliminary plat has been approved and, if applicable, associated approval conditions have been satisfied.
2. The Town Council shall review at a public meeting and make a final decision on the final subdivision plat. The Town Council has final authority to approve, approve with conditions, or disapprove the final plat, accept the dedications, and to enter into and authorize the execution of a development agreement associated with the final plat.
3. *Final plats that differ from approved preliminary plats.* If there are significant changes on the final plat from the form of the approved preliminary plat, the final plat submittal shall require review and approval in the same manner as the preliminary plat (i.e., hearings before the Planning Commission and the Town Council). Significant changes include, but are not limited to, modifications of street patterns, lot layout, drainage ways, grading, density, utility systems or public improvements. The Town Manager shall

review the final plat changes to determine the conformance to the preliminary plat and shall determine if the changes are sufficiently significant to require a new preliminary plat submittal. The subdivider may appeal the Town Manager's decision to the Planning Commission within fourteen (14) days of the decision.

(e) Effect of Decision.

Within sixty (60) days of the Town Council's approval of a final plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the applicant shall provide to the Town one (1) fully executed copy of the approved final plat, along with such other documents and fees as may be required by the Town Council or this Code. The Mayor and other authorized Town representatives shall sign the final plat. The Town shall then record the final plat and any signed subdivision agreement in the office Of the Weld County Clerk and Recorder. The applicant shall pay all required recording fees. The time periods provided for in this section may be extended for an additional sixty (60) days by the Town Manager upon written request and a showing of good cause. The Town Council's approval of any final plat shall be void if the applicant fails to comply with the time requirements of this Section.

Section 16.2.240. Site plan.

(a) Purpose.

The purpose of the site plan review process is to show how the proposed site layout will be developed in compliance with the development and design standards and regulations of this Code, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Plan. For land uses requiring a Site Plan review, such uses may be established in the Town, and building permits may be issued, only after a Site Plan showing the proposed development has been approved in accordance with the procedures and requirements of this Section. Approval of a Site Plan pursuant to this section shall not constitute a "vested property right" to develop the property in accordance with the approved plan as "vested property right" is defined in Sections 24-68-101 *et seq.*, C.R.S., or otherwise, unless the Town Council take specific action, in accordance with the provisions of this Code.

(b) Applicability.

A site plan shall be required for the following:

1. All development, including additions, in all zone districts except for single-family or duplex residential dwelling uses;
2. Establishment of a use by special review; or

3. Any change of use from one primary use classification to another (e.g., residential use to commercial use).

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written letter of intent for the requested site plan proposal.
3. Property documentation and proof of ownership, in a form acceptable to the Town.
4. A site plan drawing that generally includes a cover page, existing conditions, proposed site improvements and site details, grading, utilities, landscaping, architectural elevations and details, and a lighting plan, as appropriate based on the proposal.
5. Engineering reports and studies, as appropriate and as requested by the Town, which may include drainage, utility, and soils/geotechnical reports, and a traffic study prepared by a registered professional engineer and meeting all applicable engineering standards and specifications adopted by the Town.
6. Supporting materials as determined by the Town.

(d) Review Criteria.

The site plan shall be reviewed according to the following criteria.

1. The site plan is consistent with the Town's Comprehensive Plan.
2. The site plan is consistent with any previously approved subdivision plat, or any other precedent plan or land use approval as applicable.
3. No buildings or structures infringe on any easements so as to impact the full use and enjoyment of the easement.
4. The proposed site grading is consistent with the requirements of adopted storm drainage criteria or master drainage plans.
5. The site plan conforms to all applicable development, density, and design standards of this Code.
6. The drainage and utility plans and studies confirm that there will be adequate resources, facilities, and utility systems to adequately support and serve the proposed development together with existing development and development which is reasonably probable of connecting to the applicable Town utility system (e.g., legal buildable lots in approved subdivisions for which building permits have not been issued).

7. The recommendations of the Town Engineer and/or other agencies, together with any supporting analysis or other information presented, regarding the available capacity of the water, non-potable water, sewer, and storm drainage utility systems that will be impacted by the proposed development, and whether existing utility facilities and services are presently available to, and adequate to serve, the proposed development. The following shall be included in the consideration:
 - i. Buildings under construction that will be connected;
 - ii. Buildings required to connect, but not as yet connected to the utility;
 - iii. Legal buildable lots in approved subdivisions for which building permits have not been issued;
 - iv. Other proposed subdivisions that have received final plat stage approval and have paid all applicable water and wastewater utility fees;
 - v. Access to and movement through the site are consistent with any applicable plans and standards adopted by the Town, such as the Transportation Master Plan, highway corridor, or access control plan.
8. Any significant, adverse impacts anticipated from the proposed development will be mitigated or offset to the maximum extent reasonably practicable.
9. As applicable, the proposed phasing plan for the development is rational in terms of available infrastructure capacity.

(e) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to site plan and site plan amendment applications:

1. Requests for alternative compliance or a variance from the criteria of this Code shall be processed concurrently with the site plan review but are subject to additional review, application fees as established by the Town, and adopted application submittal requirements.
2. The Town may require the applicant to execute a development agreement to ensure the completion of all on-site and off-site public improvements as shown on the site plan drawings and identified in accompanying technical reports and studies to the site plan application.
3. Following review by staff and referral agencies, and any necessary resubmittal(s), the Town shall schedule review of the site plan request by the Planning Commission and Town Council.
4. The Planning Commission shall review the site plan and forward a recommendation of approval, approval with conditions, or denial to the Town Council.

5. Town Council shall review the site plan request and make a final decision on the application taking into consideration the recommendation of the Planning Commission and Town Staff.

(f) Effect of Decision.

Approval of the site plan application shall authorize the applicant to apply for a building permit or other construction related permits associated with the project.

1. *Building permits.* A building permit shall be issued after a site plan has been approved and a development agreement in a form approved by the Town Attorney reflecting any additional requirements, if necessary, has been executed. With Town approval, an applicant may submit a building permit application concurrent with the site plan application or during the review process. Building permits shall not be issued for any development that is not in conformance with the approved site plan.
2. *Certificates of occupancy.* Development of the site shall comply with the approved design and all conditions included in the site plan. A certificate of occupancy shall not be issued for a building or structure constructed in violation of an approved site plan.
3. *Effective approval and lapse.* The site plan shall be effective for a period of two (2) years from the date of approval unless stated otherwise in the written site plan approval. Building permits shall not be issued based on site plans that have an approval date more than two (2) years old. For multi-phased plans, building permits shall not be issued based on an approval date more than two (2) years from the date of Phase I approval, or as otherwise described in the approved phasing plan and/or executed agreement. The decision-maker may grant a one-time extension for a maximum of one (1) year upon written request of the applicant, prior to expiration of the Site Plan. The remainder of any unbuilt portion of the site plan at the time of expiration shall be null and void and require new site plan application and approval.

(g) Public improvements required.

The decision-maker may condition its approval and require on-site and off-site improvements or contributions to off-site improvements to ensure the proposed development will be served by adequate water, sewer, and storm drainage facilities. These improvements include, but are not limited to:

1. The construction of mains in all public and private streets or utility easements within and adjacent to the proposed development;
2. The construction of mains through the development to serve the lots and buildings or structures within the development and to adjacent properties to allow them to connect to and extend the water or sewer system;

3. The construction of off-site improvements needed to:
 - i. Connect to the existing system;
 - ii. Provide the storage and flows needed to meet the level of service standards and the requirements of the Water System Plan;
 - iii. Provide collection capacity needed to meet the level of service standards and the anticipated demand from the service area;
 - iv. Provide the storage and flows needed to meet the water demands generated by the proposed development; or
 - v. Provide the storage and flows needed to supply the fire flows needed to serve the development.
4. The construction of pressure-reducing valves and similar appurtenances to provide pressure zone separation in the distribution system;
5. The construction of lift and/or pump stations needed to serve the development if it is in a special pressure zone or because of topographical considerations. This will only be required or allowed in accordance with designated permanent lift and/or pump stations listed or shown in the current Water System Plan or Sewer System Plan;
6. The construction of replacements or improvements to existing facilities in order to maintain an established level of service for sanitary sewage discharge from the service area or for water system demand and fire flow to the development;
7. The construction of replacements or improvements to existing off-site facilities to the extent that the new development would cause the level of service for existing customers to drop below existing standards; or
8. The transfer or dedication of easements or land needed for the construction and maintenance of utility system improvements.

Section 16.2.245. Site plan amendments.

(a) Minor site plan amendments.

The following minor amendments to approved site plans may be reviewed and approved administratively by Town staff:

1. Changes in drives, parking, and sidewalks, if such changes further the intent of the Site Plan and this Code and are acceptable to the Town Engineer and Director of Public Works.
2. Changes in building height, setback, or similar provisions relating to the location of structures, site improvements, or open space areas or other measurable standard,

necessitated by engineering or other unforeseen difficulties, of ten (10) percent or less, provided that the underlying zone district dimensional standards are met.

3. Changes to exterior building materials, architectural elements, landscaping, sign placement, lighting fixtures, utility boxes, equipment, panels, and other similar elements that the Town Manager may determine to be “minor.”
4. Addition of an accessory structure less than five hundred (500) square feet in size.
5. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.

(b) Major site plan amendments.

Changes to approved site plans that exceed the ten percent (10%) threshold, or other major modifications that the Town Manager or their designee determine not to be “minor,” shall be considered a major site plan amendment and shall be processed as a new site plan application.

1. Major site plan amendments shall require Planning Commission approval or Town Council approval, as applicable, to become effective. A complete site plan application shall be prepared and submitted in compliance with the requirements set forth in this Code.

Section 16.2.250. Use by special review.

(a) Purpose.

As a general proposition, a “special use,” or “use by special review,” is a use allowable within the underlying zone district, but which, because of the possibility that the proposed use could become incompatible in certain respects with other uses within the zone district due to expected adverse effects of the activity, permission through a special review is required before the land may be put to that use. Approval of a use via a special review only represents a determination that a use additional to those permitted will be allowed on a particular site. Accordingly, the purpose of use by special review is not to exclude uses, but to evaluate the proposed use against criteria that are intended to reveal a fact that shows the particular use proposed at the particular location proposed would have an adverse effect unique and different (above and beyond) from those inherently associated with such a use, irrespective of its location, and to determine the need to make, and to permit the government to impose, reasonable or appropriate conditions on the permitted use to alleviate any undue concerns for health or public welfare caused by adverse land effects of the proposed use.

1. *Additional regulations for certain uses.* In addition to the review criteria, procedures, and effects of decisions of this Section, unique regulations and criteria exist for a use by special review application related to Wireless Telecommunication Facilities (Article 7 of

this Code), Oil & Gas Drilling and Production Facilities (Article 8 of this Code), and Solar Development Facilities (Article 9 of this Code). It is the applicant's responsibility to review all applicable Articles and Sections of this Code when preparing their land use application for review by the Town.

(b) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written request with justification for the use by special review; and
3. An illustrative site plan with necessary information to review conformance of any construction with standards of this Code, and to review any performance criteria for the proposal.
4. Necessary reports or studies, as appropriate, to support the use by special review request.

(c) Review Criteria. A use by special review shall be reviewed according to the following criteria.

1. The proposed use is consistent with the goals and vision of the Comprehensive Plan and other adopted plans and/or policies of the Town as applied to the particular location of Town proposed in the application.
2. The proposed use furthers the intent of the underlying zone district.
3. The proposed use is consistent with any applicable use-specific standards set forth in the Code.
4. The proposed use will not result in an over-intensive use of land or depletion of natural resources.
5. The proposed use will not cause significant air, odor, water, or noise pollution.
6. The proposed use will not injure the value of adjoining properties or make surrounding property worth more without the use than with it.
7. The proposed use will not require a level of community resources greater than that presently available for the same or similar proposal occurring in another part of the Town.
8. Whether facilities and services (including sewage and waste disposal, water, gas, electricity, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development.

9. Whether a limited approval timeframe for the requested use is necessary to:
 - i. Limit the duration of the use;
 - ii. Assess the use against changing conditions in the area; or
 - iii. Ensure periodic reporting and ongoing enforcement of any approvals.
 - iv. Review Procedures.

(d) *Review Procedures.* In addition to the general procedures found in this Code, the following requirements are specific to use by special review applications:

1. Following review of the request by staff and referral agencies, and any necessary resubmittal(s), the Town Manager shall schedule review of the request by the Planning Commission.
2. The Planning Commission shall hold a public hearing and make a recommendation to the Town Council on the use by special review request.
3. The Planning Commission may include conditions on the recommendation to mitigate concerns with the physical development, operations, or maintenance.
4. Following the review and recommendation of the Planning Commission, staff will schedule review and final action of the request by the Town Council.
5. The Town Council shall hold a public hearing and make a final decision on the use by special review request.
6. The Town Council may include conditions on the approval to mitigate concerns with the physical development, operations, or maintenance.
7. *Relationship to site plan requirements.* If a Site Plan is necessary for the proposed use by special review, then a site plan application shall be processed concurrently with the use by special review application, as required by the Town. The Planning Commission shall render separate recommendations, and the Town Council render separate decisions on the applications based on the applicable review criteria in this Section 16.2.245 (for the Use by Special Review) and Section 16.2.240 (for the Site Plan).

(e) *Effect of Decision.*

1. *Commencement of use.* Approval of a use by special review allows the applicant to use the property as proposed. However, if the property requires development, the applicant shall have a site plan application reviewed and approved by the Town and any building permit or other applicable development or construction permits issued prior to commencement of the approved use.

2. *Minor changes.* The Town Manager may approve minor changes upon meeting each of the following criteria:
 - i. The change expands the floor area, height, or other dimensional standards of the original approval by less than ten (10) percent;
 - ii. There is not a change of use or significant increase in the intensity of the use that could adversely impact adjacent properties;
 - iii. The change does not exceed the limits or violate any specific conditions of the original approval; and
 - iv. The change complies with all other provisions of this Code.
3. All other proposed changes to the use shall require an amendment to the use by special review through the same procedures and criteria as the original application.

(f) Lapse.

Approval of a use by special review shall lapse and be considered null and void:

1. The use itself, or if permanent construction in conjunction with such use, has not commenced within one (1) year of the approving action, or within the time frame established as a condition of approval of the use by special review. The Town Manager may grant a one (1) year extension to this timeframe that is ratified by the Town Council. This timeframe is distinct from any duration limits, periodic reviews, or renewal periods once the use is established, which may be a condition of approval by the Town; or
2. If the use is no longer active or in operation for a period of twelve consecutive months; or
3. Upon a change of primary use of the property.

(g) Revocation.

A use by special review may be revoked or amended by the Town Council through the same procedures granting the original use by special review approval, upon a finding that the conditions of approval have not been met, the applicant's noncompliance with any approved Site Plan or development agreement, if applicable, or that the use has otherwise violated the provisions of this Code. The Town Manager shall first notify the applicant in writing of the said violation and shall provide the applicant with a thirty-day period in which to abate the violation. Failure of the applicant to abate cited violations within thirty (30) days shall result in the commencement of a hearing process before the Town Council. Upon completion of such review, the Town Council may revoke the Special Review Use or amend the original approval.

Section 16.2.260. Appeals.*(a) Purpose.*

The appeals process allows for the review of a Town Staff decision, as permitted under this Code, to determine if there was an error or abuse of discretion in any order, requirement, permit, decision, determination, refusal, or interpretation made by any Town Staff in interpreting and/or enforcing the provisions of this Code. It is the intention of this Section that all questions arising in connection with the interpretation and enforcement of this Code shall be presented first to the appropriate department, that such questions shall be presented to the Board of Adjustment only on appeal from the decisions of that Department, and that recourse from the decision of the Board of Adjustment shall be to the courts. It is further the intention of this Section that the duties of the Town Council in connection with this Code shall not include the hearing or passing upon disputed questions that may arise in connection with the enforcement thereof.

(b) Submittal Requirements.

Applicants for an appeal request must submit the following to be deemed a complete appeal request.

1. Written notice of the appeal on a form approved by the Town.
2. A description and the date of the final order, requirement, decision, or determination being appealed.
3. A description of the grounds for the appeal, including specific allegations of error.

(c) Review Criteria.

The Board of Adjustment's review shall be limited to consideration only of the record before the decision-maker. The standard of review for such an appeal shall be limited to an "abuse of discretion and/or exceeding authority under this Code." Under this standard, the Board of Adjustment may only overturn the contested action if it finds that the decision-maker abused its exercise of discretion. The Board of Adjustment may use the following evidence in its review of the appeal:

1. The technical meaning of the provision being appealed.
2. Evidence of the way the provision has been interpreted in the past.
3. The positive or negative impact of the requested appeal on the achievement of stated development goals and policies of the Town, as outlined in this Code.

4. The intent of the provision in implementing the Comprehensive Plan and other adopted plans and/or policies of the Town.

(d) Review Procedures.

Appeal requests shall be filed in writing with the Town no later than fifteen (15) days from the date of the order, requirement, decision, or determination being appealed. Failure to make a timely and complete appeal request shall be considered a waiver of the appellant's rights to appeal to the Town's Board of Adjustment.

1. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by the order, requirement, permit, decision, or determination that is the subject of the appeal, or by the Town Manager, on behalf of the Town.
2. Appeals must be filed with the Town Clerk.
3. Applicants for an appeal request must submit the following to be deemed a complete appeal request.
 - i. Written notice of the appeal on a form approved by the Town.
 - ii. A description and the date of the final order, requirement, decision, or determination being appealed.
 - iii. A description of the grounds for the appeal, including specific allegations of error.
4. An appeal halts all proceedings in furtherance of the order, requirement, decision, or determination appealed from unless the Town certifies that it could cause imminent peril to life or property.
5. Once the appeal is determined to be complete, the Town Manager shall schedule review and action by the Board of Adjustment.
6. The Board of Adjustment shall complete its review at a public meeting and render its decision, by majority vote, to uphold or deny the decision on the item or contested action being appealed within 30 days of the filing of the request for an appeal.
7. The Board of Adjustment will have available to it the entire record of the contested action that was presented to or conducted before the applicable decision-maker.
 - i. While the Board of Adjustment will not be considering any new evidence or information, the appellant has submitted an appeal request containing written argument, and the appellant will have an opportunity to submit arguments orally to the Board of Adjustment regarding its position in the appeal.

- ii. The chair may place reasonable restrictions on such arguments, but the decision to place any such limits or specific parameters on the conduct of the proceeding is entirely up to the chair. For example, the chair may limit the length of time for appellant's initial oral argument to 30 minutes as well as limit the length of time for the Board of Adjustment's questioning of the appellant to 30 minutes.
 - iii. An appellant shall be notified in writing of any such limitations in advance. Furthermore, an appellant shall be given an opportunity to reserve any portion of their time allotted for initial oral argument for use during the period of Board of Adjustment questioning or to make final statements after Board of Adjustment questioning (for example, the appellant may only want to use ten (10) of their thirty (30) minutes to make their initial arguments, and reserve ten (10) of the remaining twenty (20) minutes for use to address questions and ten (10) minutes for their final statement to the Board after addressing Board questions).
 - iv. Finally, the appellant shall be entitled to make a closing argument before Board deliberation.
8. Following the oral argument before the Board, the Board of Adjustment will deliberate and render a decision on the appeal request.

(e) Effect of Decision.

The Board of Adjustment's decision shall be final and appealable. Appeals from decisions made by the Board of Adjustment shall be to the courts pursuant to the applicable Colorado Rules of Civil Procedure.

Section 16.2.265. Variances.

(a) Purpose.

The variance process is intended to provide limited relief from the requirements of this Code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this Code. It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this Code may impose on property owners in general. Rather, it is intended to provide relief where the requirements of this Code render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the variance is requested.

(b) Eligibility.

1. Variances may only be issued for the following dimensional standards:
 - i. Setbacks (primary and accessory structures);
 - ii. Lot frontage;
 - iii. Lot coverage;
 - iv. Building height (primary and accessory structures);
 - v. Sign area or height; and
 - vi. Parking.
2. No variance shall be granted to permit a use of land not otherwise permitted in the applicable zone district.
3. A lot width or area variance associated with a subdivision will be considered as part of the subdivision process, except that no minor subdivision plat shall be processed by the town if it involves a lot width or area variance.
4. No variance shall be granted to increase the size or height of signs by more than ten percent above the requirements and limitations of this Code.
5. No variance shall be granted to decrease the amount of required parking by more than ten percent below the requirements of this Code.
6. No variance shall be granted to change either (a) a condition attached to an approved rezoning or special use, (b) a condition attached to an approved site plan; or (c) a condition attached to an approved final plat.
7. The Board of Adjustment may not change or alter this Code or change the zoning district map of the town.

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written justification of the requested variance and identified hardship in meeting the requirements of this Code.
3. A comparison of the requested variance against the existing criteria of this Code.
4. Supporting images and details that illustrate the requested variance and site details.

(d) Review Criteria.

The Board of Adjustment may approve a variance only if it finds that there is an exceptional and undue hardship, whereby the application falls within any one of the categories set forth in paragraphs (1), (2) or (3) of this subsection, and the application satisfies any one of the criteria of paragraph (4) through (7) of this subsection.

1. *Disability.* There is a disability affecting the owners or tenants of the property or any member of the family of an owner or tenant who resides on the property, which impairs the ability of the disabled person to utilize or access the property.
2. *Unusual conditions.* There are unusual physical circumstances or conditions, including, without limitation, irregularity, narrowness, or shallowness of the lot; or exceptional topographical or other physical conditions, unique to the affected property; and
3. *Compatibility.* The property could be developed in conformity with the provisions of this chapter, but the proposed variance will result in a building or structure form that is reasonable, customary, and consistent with or more compatible, in terms of building height, siting, and design elements, with the existing neighborhood in which the subject property is located.
4. *Hardship.*
 - i. Without the variance, there is no reasonable use of the property; or
 - ii. Strict compliance prevents improvement of the property in a manner which is reasonable, customary, and consistent with other properties in the area; or
 - iii. Strict compliance would require significant or unjustified expense in light of the scope of the project, or would result in destruction or demolition of all or a portion of the existing building, structure, or other attractive features of the property; or
 - iv. If the variance is denied, the development or use of the property cannot yield a reasonable return in service, use or income as compared to adjacent conforming property in the same zoning district; provided, however, that loss of a more convenient or profitable use of property, or similar financial advantage, that similar variances have been granted elsewhere, or the fact that a more profitable use of the property might be had if a variance were granted are not grounds for a variance.
5. *Exceptional hardship.*
 - i. The hardship is one suffered by the applicant alone and not by neighbors or the general public; or
 - ii. The hardship is unique and unusual, or so, rather than one shared by many surrounding properties.

6. *Undue hardship.*

- i. the hardship is not the result of the applicant's own actions; or
- ii. The hardship is the result of predecessors in interest of the property, which could not have been foreseen to create difficulty in complying with the ordinance for future improvements.

7. *Degree of requested variance.*

- i. The requested variance the minimum that will afford relief and the least possible modification of the requirements of the zoning code; or
- ii. the variance will neither result in the extension of a nonconforming situation, nor authorize the initiation of a nonconforming use of land, nor conflict with the goals and policies of the comprehensive plan and this Code; or
- iii. Corrective measures can be imposed upon the variance request to mitigate or to protect neighboring properties against the anticipated, expected impacts or adverse effects of the variance.

(e) *Review Procedures.*

- 1. A request for Variance may be initiated only by the property owner or their authorized representative
- 2. A complete application shall include the following minimum requirements:
 - i. A written request with the relief sought, together with the justification for the variance request, specifying the facts or circumstances that are alleged to show that the application meets the approval criteria.
 - ii. A conceptual site plan or plot plan with necessary information to review the request in relation to existing site conditions and the criteria of this Code.
- 3. A variance request shall be processed prior to or concurrently with a site plan application, as required by the Town.
- 4. Following review of the request by staff and necessary referral agencies, and any necessary resubmittal(s), the Town shall schedule review by the BOA.
- 5. The Board shall conduct a public hearing on the proposed variance.
- 6. Approval by a majority of the Board present shall be necessary to grant a variance.
- 7. The Board may impose conditions or unique requirements that best assure the criteria for approval are in place and maintained by the applicant, or to mitigate anticipated impacts of the variance, and that any violation of these conditions shall be considered a violation of an approval.

(f) Effect of Decision.

Upon determination of a variance, the findings of approval or denial shall be by resolution with the justifications set forth. Upon approval, the applicant may proceed with the next steps in the process including but not limited to a site plan or building permit application.

(g) Lapse.

Any variance granted shall become null and void:

1. If the variance is not exercised (e.g., building permit obtained, substantial construction commenced) within 180 days of the date it is granted;
2. If the approval or conditions of approval of the variance is violated;
3. If the Town Manager finds that redevelopment or modification of the subject property makes compliance with this Code possible without the previously approved variance;
or
4. If the Town Manager finds that the alleged hardship or difficulty upon which the variance is based has been eliminated.

Section 16.2.270. Administrative adjustments.

(a) Purpose.

The administrative adjustment process permits adjustments to certain provisions of this Code otherwise applicable to a property pursuant to the procedures in this Section. Administrative adjustments, comprised of two types, alternative compliance and minor modifications, may authorize minor changes to pending applications, or to approved plans and permits, and relief from specified standards as stated in this Section.

1. Alternative Compliance requests are intended to relieve unnecessary hardship in complying with the strict letter of this Code, and to promote context-sensitive development, which are minor deviations from otherwise applicable standards that may be approved by the Town Manager. Alternative compliance requests are to be used when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process. They are not intended to relieve specific cases of financial hardship, nor to allow circumventing the intent of this Code and its standards.
2. Minor modifications are intended to ensure compliance with federal law.

(b) Eligibility.

1. Alternative compliance requests to relieve unnecessary hardship. As part of the review and approval of any procedure set forth in this Code, the Town Manager may approve adjustments of up to a maximum of five (5) percent from sign height or area and up to a maximum of ten (10) percent from the following general development and zoning district standards, provided that the applicable approval criteria listed below are met:
 - i. Minimum lot area, coverage, and frontage requirements;
 - ii. Setback, parking, and building height requirements;
 - iii. Subdivision design and improvements standards; and
 - iv. Any other quantitative development standards set forth in this Code.
2. Minor modifications to ensure compliance with federal law.
 - i. Compliance with Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
 - A. The Town Manager may grant minor modifications to any use, building form, or design standard or any other provision stated in this Code in order to eliminate a substantial burden on religious exercise as guaranteed by the RLUIPA, as amended.
 - B. In no circumstance shall the Town Manager approve an adjustment that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zone district where this Code prohibits such use or accessory use/structure/activity.
 - C. In granting an administrative adjustment, the Town Manager may require conditions that will secure the objectives of the modified standard and that will mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or screening
 - ii. Reasonable accommodations under Federal Fair Housing Act (FFHA).
 - A. The Town Manager may grant minor modifications to provide reasonable accommodations under the FFHA. In the application for a minor modification under this subsection, the applicant shall identify the type of housing being provided and cite the specific provisions of the FFHA that require reasonable accommodations be made for such housing. The Town Manager may grant the following types of minor modifications to assure reasonable accommodations required by law:

- I. Modify any minimum distance or spacing requirements, building setback, height, open space or building coverage, or landscaping requirement by no more than ten (10) percent; or
 - II. Reduce any off-street parking requirement by no more than one (1) space.
- B. The Town Manager may approve a type of reasonable accommodation different from that requested by the applicant if the Town Manager concludes that a different form of accommodation would satisfy the requirements of the FFHA with fewer adverse impacts on adjacent areas. The decision of the Town Manager shall be accompanied by written findings of fact as to the applicability of the FFHA, the need for reasonable accommodations, and the authority for any reasonable accommodations approved. Requests for types of accommodation that are not listed above may only be approved through a variance or official map amendment (rezoning) process.

(c) Submittal Requirements.

The submittal requirements, as established by the Town and listed in the application checklist on file, shall include at a minimum, unless waived by Town Staff:

1. A complete land use application form and checklist with appropriate fees paid.
2. A written request and justification for the alternative compliance or minor modification request addressing the review criteria above.
3. A comparison of the requested alternative compliance or minor modification against the existing criteria of this Code or adopted guidelines.
4. Supporting images and details that illustrate the requested alternative.

(c) Review Criteria.

An administrative adjustment request shall be reviewed based on the following criteria.

1. If the alternative is a minor modification:
 - i. The adjustment is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Act; or
 - ii. The adjustment is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000.

2. The alternative will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use, or enjoyment of adjacent properties.
3. The alternative will result in an outcome that equally meets or exceeds the goals of the Comprehensive Plan, this Code, and adopted plans and/or policies by the Town.
4. The alternative does not alter any land use and dimensional standards of this Code.
5. The alternative is based on specific site conditions and unique site context.
6. The alternative meets or exceeds the design objective of the adopted design standard.
7. The alternative considers the context of the broader community benefits such as:
 - i. Enhanced architectural features that complement or improve the character of the surrounding area.
 - ii. Adaptive reuse of existing buildings.
 - iii. Considerations of improved sustainability and mitigation of environmental impacts.
 - iv. Enhanced pedestrian amenities and features.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to administrative adjustment requests.

1. An alternative compliance or minor modification request may be processed prior to submitting a formal site plan application. The details related to an alternative compliance or minor modification shall be part of the formal site plan drawings.
2. Following review of the request by staff and necessary referral agencies, and any necessary resubmittal(s), the Town Manager shall review and provide a determination on the request.
3. The Town Manager may attach any condition of approval to an administrative adjustment necessary to protect the health, safety, and welfare of the community, to secure the objectives of the modified standard, and to minimize adverse impacts on adjacent properties.

(e) Effect of Decision.

An approved administrative adjustment shall be specified on the approved plat, development plan, approval letter, or approving document for which the modifications were sought. The approval of an administrative adjustment will expire within one calendar year from the date of

approval if a formal development proposal or permitting for which the administrative adjustment was sought is not in process or approved by the Town.

Section 16.2.280. Dedication of public rights-of-way and public easements.

(a) Purpose.

The dedication of public rights-of-way and public easements is the process to officially record rights-of-way or easements that grant specific access and property interests for public purposes, as stated on the recorded document, typically a plat, deed, or separate easement instrument, or other instrument of dedication or conveyance.

(b) Eligibility.

1. Public rights-of-way and public easements may be dedicated in association with a minor or major subdivision process, or by this Section of the Code.
2. Eligible applicants for the dedication of public right(s)-of-way or public easement(s) include any person or entity with a property interest in the abutting and underlying land. The Town may require all property owners of land abutting or underlying the proposed right-of-way or easement to join or consent to the application.

(c) Review Criteria.

1. The legal requirements for recording the right(s)-of-way or easement(s) have been established, and all forms and fees required by the Town have been submitted.
2. The applicant has provided proof of ownership and provided notice to the owners of all other property interests in the proposed easement, proposed right-of-way, or affected property.
3. The dedication will not be detrimental to any adjacent property owner.
4. No owner or entity with a property interest in the proposed easement or right-of-way has objected.
5. All parties with an interest in or potentially impacted by the request have received written notice and have had an opportunity to comment, including public and private utility providers.
6. There are no conflicts with existing or planned easements, rights-of-way, or infrastructure.
7. For dedication of public right-of-way, the property to be dedicated is free and clear of all liens and encumbrances, except as may otherwise be approved by the Town Council in its sole and exclusive discretion.

8. The application meets all other applicable procedures and requirements of the Colorado Statutes, the Colorado Constitution, and the Town's Municipal Code.

(d) Review Procedures.

In addition to the general procedures found in this Code, the following requirements are specific to dedicating public rights-of-way and public easements within the Town:

1. The applicant shall submit an application, a plat, or other legal document showing the proposed dedication, the effect to adjacent or abutting properties, and a legal description and instrument of conveyance as warranted based on the request.
2. The Town shall evaluate the application for completeness and coordinate review of the application per Section 16.2.130. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the proposed right-of-way or easement.
3. The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
4. Following review and analysis by staff and referral agencies, the Town Manager shall refer the dedication application to the Town Council for review and a decision. The Town Council shall review each right-of-way dedication application relative to the applicable approval criteria in this section, and shall by resolution approve, approve with conditions or modifications, or disapprove a dedication request.

(e) Effect of Decision.

After approval of the dedication of a public right-of-way or a public easement, the Town shall record the dedication, conveyance, or easement instrument, as applicable, with the county.

Section 16.2.285. Vacation of public rights-of-way and public easements.

(a) Purpose and scope.

1. The procedure for vacation of streets, alleys, or other public ways, and vesting of title upon vacation, shall conform to state law as provided in Sections 43-2-301 et seq., C.R.S., as amended. In addition, said vacation shall conform to the specific procedure as provided in this Section.
2. The Town Council has the authority to:
 - i. Vacate public rights-of-way, which include any public street, alley, lane, parkway, avenue, road, trail, public access easement, or other public way designated or dedicated on a subdivision plat, or conveyed by deed, or acquired by prescriptive use, whether or not it has been used as such.

- ii. Vacate public easements designated or dedicated on a subdivision plat or conveyed by deed or recorded easement instrument.

(b) Eligibility.

1. Public right-of-way may be vacated in association with a major subdivision process, or by the procedures of this Section of the Code.
2. Public easements may be vacated in association with a minor or major subdivision process, or by the procedures in this Section of the Code.
3. Eligible applicants for a vacation include the Town or any person or entity with a property interest in the abutting or underlying land.
4. For vacation of public right-of-way or public easements abutting or upon multiple properties, the Town may require all property owners to join or consent to the application.

(c) Review Criteria.

1. Vacation of public right-of-way and public easements shall be left to the sound discretion of the Town Council. The applicant shall have the burden of presenting sufficient information to justify the requested vacation. The Town Council shall not exercise its discretion to vacate any public right-of-way or public easement, unless it meets the following criteria:
 - i. The vacation of public right-of-way shall not leave any land adjoining said right-of-way without an established public road or private-access easement connecting said land with another established public road;
 - ii. All parties with interest in or potentially impacted by the request have received written notice and have had time to comment, including public and private utility providers;
 - iii. For vacation of a public easement, no owner or entity with a property interest in the easement has objected;
 - iv. No property would be left without reasonable access or provision of any public facilities or utility services by reason of the vacation;
 - v. The right-of-way or easement is no longer necessary for public use or convenience;
 - vi. The vacation will not restrict access to any parcel so that access is unsafe, unreasonable, or economically prohibitive;
 - vii. The vacation does not result in an easement configuration that could create difficulty in the provision of services or installation of public improvements;

- viii. Adequate easements have been reserved for use and/or maintenance by the Town or other utility agencies;
 - ix. There is no current or future public purpose for the public right-of-way or public easement when considering the comprehensive plan and other adopted plans or policies; and
 - x. The vacation is consistent with the goals of the Town's comprehensive plan.
2. In exercising discretion to vacate a public right-of-way, the Town Council may also consider impacts on mobility, parking, traffic, and safety, as well as any benefits to the Town that will result from removing the public right-of-way from the municipal street system.

(d) Review Procedures. In addition to the general procedures found in this Code, the following requirements are specific to vacating public rights-of-way and public easements in the Town:

- 1. The applicant shall submit an application, a plat, or other legal document showing the proposed vacation, the effect on adjacent or abutting property, and a legal description of the right-of-way or easement to be vacated.
- 2. The Town shall evaluate the application for completeness and coordinate review of the application per Section 16.2.130. The review shall include a request for comments from all referral agencies who may have facilities or other interest in the right-of-way or easement.
- 3. The Town may require the applicant to complete a consent form for all applicable public and private utility providers.
- 4. Following review and analysis by staff and referral agencies, the Town Manager shall schedule a review of the vacation application by the Town Council.
- 5. The Town Council shall review each vacation application relative to the applicable approval criteria in this section, and approve, approve with conditions or modifications, or disapprove a vacation request. Any approval or approval with conditions or modifications shall be adopted by ordinance and any disapproval shall be by resolution.
- 6. The Town Council may condition a decision to vacate a public right-of-way or public easement on reserving any interest the Town Council determines necessary to serve a public purpose or the interests of affected property.

(e) Effect of Decision.

After approval of an ordinance vacating public right-of-way or a public easement, the Town shall record the ordinance, on or after the ordinance's effective date, with the county.

**TOWN OF SEVERANCE, COLORADO
NOTICE OF PUBLIC HEARINGS**

Notice is hereby given that the Planning Commission of the Town of Severance will hold two (2) Public Hearings, on **Wednesday, January 15, 2025, commencing at 6:00 p.m.**, or as soon as thereafter as each matter may be called, at the Town of Severance Town Hall, Council Chambers, 3 S. Timber Ridge Parkway, Severance, Colorado 80550. The purpose of each Public Hearing is to take testimony from the public on proposed amendments to the Town of Severance Land Use Code (Chapter 16 of the Severance Municipal Code), as follows:

1. Proposed text amendments to the Land Use Code for purposes of reorganizing Articles 1 and 2.
2. Proposed text amendments to the Land Use Code requiring two points of vehicular access for a subdivision.

No later than three (3) days prior to the Public Hearings date, all meeting materials and instructions for participation will be posted at <https://www.townofseverance.org> and available upon appointment at Severance Town Hall, 3 S. Timber Ridge Parkway, Severance, Colorado 80550, Tel. 970-686-1218. Written comments must be submitted to the Town no later than 5:00 pm on the day of the meeting to be considered by the Planning Commission. All written comments are to be sent to planning@townofseverance.org.

Any person may appear at the Public Hearings and be heard regarding the matters under consideration.

The Town of Severance Land Use Code (Chapter 16 of the Severance Municipal Code) is on file with the Town of Severance and available online at https://library.municode.com/co/severance/codes/municipal_code. For questions or comments contact:

Shani Porter
970-686-1218
planning@townofseverance.org

TOWN OF SEVERANCE, COLORADO
Sarah Jabobsen
Town Clerk



AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
PUBLIC HEARING Resolution No. PC 2025-03R: Text Amendment to the Land Use Code requiring two points of vehicular access for a subdivision	Shani Porter, Planning Director	Shani Porter, Planning Director
ACTION REQUESTED		
Planning Staff ask that the Planning Commission review, discuss, and take action on Resolution PC-2025-03R and forward a recommendation to the Town Council on amendments to the Land Use Code regarding site access requirements for major subdivisions and multifamily and commercial developments. Actions that may be taken: 1. Approve PC-2025-03R and forward a recommendation of approval to Town Council. 2. Deny Resolution PC-2025-03R 3. Take No Action.		<u>Resolution</u>
BRIEF SUMMARY		
The proposed amendments to the Land Use Code will add site access requirements for major subdivisions and multifamily and commercial developments to require at least two fully functioning points of vehicular and pedestrian access from the subdivision or development to the public road network		
PUBLIC SUPPORT/CONCERN		
None at this time		
ANALYSIS AND RECOMMENDATION		
Town staff is asking for the Planning Commission to review, discuss, and approve PC-2025-03R for the proposed amendments to the Land Use Code.		
MATERIALS SUBMITTED		
The following materials were submitted and included in this packet: 1. PC-2025-03R Recommend Approval of Subdivision Site Access Requirements 2. Exhibit A TC O-2025-XX Amend LUC Site Access Requirements 3. PC Public Notice Land Use Code 1-15-25		

**TOWN OF SEVERANCE PLANNING COMMISSION
RESOLUTION NO. PC-2025-03R**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF
SEVERANCE, COLORADO, MAKING A RECOMMENDATION TO THE TOWN
COUNCIL TO APPROVE AMENDMENTS TO CHAPTER 16, “LAND USE CODE,” OF
THE SEVERANCE MUNICIPAL CODE REGARDING SITE ACCESS
REQUIREMENTS FOR MAJOR SUBDIVISIONS AND MULTIFAMILY AND
COMMERCIAL DEVELOPMENTS**

WHEREAS, in accordance with Section 16.19.120 of the Severance Municipal Code, Town staff may initiate amendments to the text of the regulations in Chapter 16, “Land Use Code,” of the Severance Municipal Code (“Code”); and

WHEREAS, Town staff has proposed amendments to the Land Use Code to add site access requirements for major subdivisions and multifamily and commercial developments to require at least two fully functioning points of vehicular and pedestrian access from the subdivision or development to the public road network (the “Proposed Amendments”), in the form attached to this resolution as **Exhibit A** and incorporated herein by this reference; and

WHEREAS, in accordance with Section 16.19.120 and 16.19.10, the Planning Commission shall review text amendments to the Land Use Code at a public hearing; and

WHEREAS, on January 15, 2025, the Planning Commission held a duly noticed public hearing to consider the Proposed Amendments;¹ and

WHEREAS, after considering any public testimony at the public hearing and the presentation by Town staff, and after reviewing the Proposed Amendments according to the criteria in Section 16.19.120(b) of the Land Use Code, the Planning Commission desires to recommend the Town Council approve the Proposed Amendments as presented.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION
OF THE TOWN OF SEVERANCE, COLORADO, AS FOLLOWS:**

1. The Planning Commission recommends the Town Council approve the proposed amendments to Chapter 16, “Land Use Code,” of the Severance Municipal Code to add site access requirements for major subdivisions and multifamily and commercial developments to require at least two fully functioning points of vehicular and pedestrian access from the subdivision or development to the public road network, in substantially the same form attached to this resolution as **Exhibit A**.

¹ Notice of the Planning Commission’s public hearing on the Proposed Amendments was published on December 30, 2024, on the Town of Severance’s website, <https://www.townofseverance.org/256/Public-Notices>, in accordance with Section 16.19.40(b)(4) and Tables 19.10 and 19.40 in Article 19 of the Land Use Code.

RESOLVED AND APPROVED this ____ day of _____, 2025.

PLANNING COMMISSION OF THE
TOWN OF SEVERANCE, COLORADO

Julie Stout, Chair

ATTEST:

Sarah Jacobsen, Town Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, Town Attorney

**TOWN OF SEVERANCE
ORDINANCE NO. 2025-XX**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SEVERANCE,
COLORADO, AMENDING CHAPTER 16, “LAND USE CODE,” OF THE SEVERANCE
MUNICIPAL CODE REGARDING SITE ACCESS REQUIREMENTS FOR MAJOR
SUBDIVISIONS AND MULTIFAMILY AND COMMERCIAL DEVELOPMENTS**

WHEREAS, in accordance with Section 16.19.120 of the Severance Municipal Code, Town staff may initiate amendments to the text of the regulations in Chapter 16, “Land Use Code,” of the Severance Municipal Code (“Code”); and

WHEREAS, Town staff has proposed amendments to the Land Use Code to add site access requirements for major subdivisions and multifamily and commercial developments to require at least two fully functioning points of vehicular and pedestrian access from the subdivision or development to the public road network; and

WHEREAS, the proposed site access requirements ensure adequate traffic circulation within the subdivision or development, promote public safety and welfare by requiring emergency ingress and egress for the public and emergency vehicles, and encourage community connectivity; and

WHEREAS, in accordance with Section 16.19.120 and 16.19.10, the Planning Commission held a public hearing and reviewed the proposed amendments at its meeting on January 15, 2024, and recommended approval of the proposed amendments; and

WHEREAS, on _____, 2025, the Town Council held a duly noticed public hearing to consider the proposed amendments¹ and reviewed the amendments in accordance with the criteria in Section 16.19.120(b) of the Code; and

WHEREAS, the Town Council desires to amend Chapter 16 of the Severance Municipal Code to add site access requirements for major subdivisions and multifamily and commercial developments within the Town; and

WHEREAS, this ordinance is enacted pursuant to the Town of Severance’s home rule authority under Article XX, § 6 of the Constitution of the State of Colorado, and pursuant to the Town of Severance’s police powers, in order to safeguard and preserve the public health, safety and welfare of the community.

¹ Notice of the Planning Commission’s public hearing on the Proposed Amendments was published on _____, 2025, on the Town of Severance’s website, <https://www.townofseverance.org/256/Public-Notices>, in accordance with Section 16.19.40(b)(4) and Tables 19.10 and 19.40 in Article 19 of the Land Use Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SEVERANCE, COLORADO, AS FOLLOWS:²

Section 1. Section 16.4.40, “Reserved,” of Article 4, “Subdivision Standards and Improvements,” of Chapter 16, “Land Use Code,” of the Severance Municipal Code is hereby amended to read as follows:

Sec. 16.4.40. – Subdivision and Site Access Requirements.

(a) Major Subdivisions.

- (1) Major subdivisions are required to provide at least two fully functioning points of vehicular and pedestrian access to the public road network. These access points must connect to two separate public roads to ensure adequate traffic circulation, emergency ingress and egress, and community connectivity. Sites with physical constraints or unique conditions may require a detailed analysis to determine if an alternative configuration can meet the intent of this requirement, subject to approval by the Town.
- (2) Subdivisions containing more than 100 residential units may be required to provide a third point of access to distribute traffic more evenly, enhance overall connectivity, and mitigate potential congestion at subdivision entrances. The need for additional access points will be determined based on the size, layout, and anticipated traffic impacts of the development, in consultation with the Town and emergency service providers.

(b) Multifamily and Commercial Developments.

- (1) Multifamily developments and commercial site areas are required to provide a minimum of two fully functioning points of vehicular and pedestrian access to the public road network. The distance between access points must be sufficient to reduce congestion and provide redundancy for emergency ingress and egress, as determined by the Town’s adopted driveway spacing standards.
- (2) Where physical constraints or other unique site conditions limit the ability to provide two public access points, developers must include an alternative plan for emergency vehicle access. This may involve the design and implementation of dedicated emergency routes, approved by the Town and

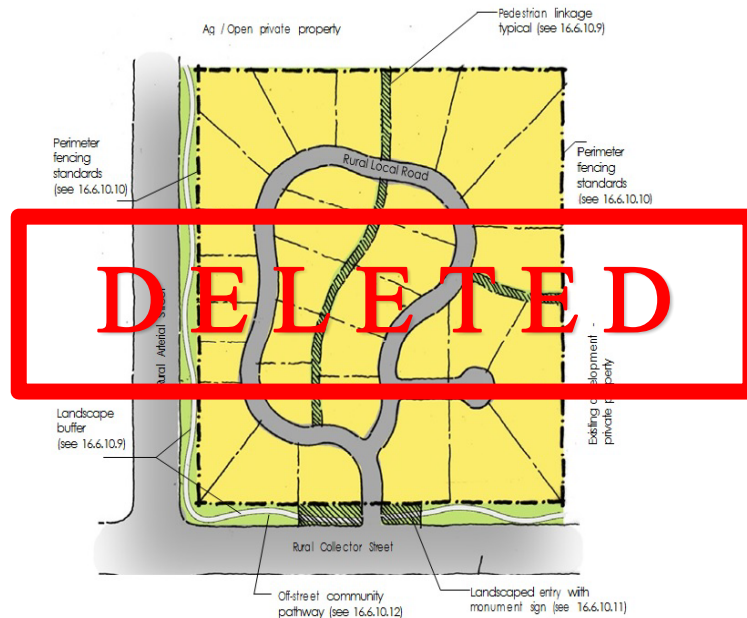
² Additions to existing Code provisions are shown by underlining; deletions from existing Code provisions are shown by ~~strikethrough~~.

emergency service providers, that meet all applicable width, surface, and clearance requirements.

Section 2. Section 16.6.10.6, “Standards,” of Division 1, “Rural Residential,” of Article 6, “Zoning Districts,” of Chapter 16, “Land Use Code,” of the Severance Municipal Code is hereby amended to delete the subdivision layout graphic image immediately following subsection (a), as follows:

Sec. 16.6.10.6. Standards.

(a) [No changes to text of (a) are made by this ordinance.]



(b) ... [No changes to (b) are made by this ordinance.]

(c) ... [No changes to (c) are made by this ordinance.]

Section 3. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town Council hereby declares it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. This ordinance is deemed necessary for the immediate protection of the health, welfare and safety of the community.

Section 6. In accordance with Section 6.03(6) of the Town of Severance Home Rule Charter, this ordinance shall be effective thirty (30) days after publication.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN
FULL this ____ day of _____, 2025.

TOWN OF SEVERANCE, COLORADO

Matthew Fries, Mayor

ATTEST:

Sarah Jacobsen, Town Clerk

APPROVED AS TO FORM:

Hayashi & Macsalka, LLC, Town Attorney

AFFIDAVIT OF PUBLICATION

STATE OF COLORADO)
)
COUNTY OF WELD)

I, Sarah Jacobsen, Town Clerk for the Town of Severance, do solemnly swear and affirm that I published in full a true and correct copy of Ordinance No. ____-2025, enacted by the Town Council on _____, 2025, on the Town of Severance's website, <https://www.townofseverance.org/255/Ordinances>, on _____, 2025

Witness my hand and official seal on this date of _____, 2025.

Sarah Jacobsen
Town Clerk

[Town Seal]

TOWN OF SEVERANCE, COLORADO
NOTICE OF PUBLIC HEARINGS

Notice is hereby given that the Planning Commission of the Town of Severance will hold two (2) Public Hearings, on **Wednesday, January 15, 2025, commencing at 6:00 p.m.**, or as soon as thereafter as each matter may be called, at the Town of Severance Town Hall, Council Chambers, 3 S. Timber Ridge Parkway, Severance, Colorado 80550. The purpose of each Public Hearing is to take testimony from the public on proposed amendments to the Town of Severance Land Use Code (Chapter 16 of the Severance Municipal Code), as follows:

1. Proposed text amendments to the Land Use Code for purposes of reorganizing Articles 1 and 2.
2. Proposed text amendments to the Land Use Code requiring two points of vehicular access for a subdivision.

No later than three (3) days prior to the Public Hearings date, all meeting materials and instructions for participation will be posted at <https://www.townofseverance.org> and available upon appointment at Severance Town Hall, 3 S. Timber Ridge Parkway, Severance, Colorado 80550, Tel. 970-686-1218. Written comments must be submitted to the Town no later than 5:00 pm on the day of the meeting to be considered by the Planning Commission. All written comments are to be sent to planning@townofseverance.org.

Any person may appear at the Public Hearings and be heard regarding the matters under consideration.

The Town of Severance Land Use Code (Chapter 16 of the Severance Municipal Code) is on file with the Town of Severance and available online at https://library.municode.com/co/severance/codes/municipal_code. For questions or comments contact:

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TOWN OF SEVERANCE, COLORADO
Sarah Jabobsen
Town Clerk