



**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, June 18, 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 May 21, 2025 Minutes

**B. REGULAR MEETING**

**1. Bower North Annexation**

- Legislative
- Staff Presentation: Shani Porter, Planning Director

**2. PUBLIC HEARING**  
**Zoning: Bower North**

- Quasi-Judicial
- Staff Presentation: Shani Porter, Planning Director

**3. PUBLIC HEARING**

**Resolution No. PC 2025-09R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Article 6-10 Architecture Standards, Wireless, Oil & Gas, Solar and Flood**

- 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
4. Council Members
5. Chair

**D. ADJOURN**

**Planning Commission MEETING**  
*Wednesday, June 18, 2025, 6:00 PM (MDT)*

*The Planning Commission reserves the right to adjourn to a virtual-only meeting at their discretion should the need arise.*

*Registration URL*  
[https://us02web.zoom.us/webinar/register/WN\\_8WAKbBepTvexQIKz59qmfA](https://us02web.zoom.us/webinar/register/WN_8WAKbBepTvexQIKz59qmfA)

*The Planning Commission reserves the right to adjourn to a virtual-only meeting at their discretion should the need arise.*

*The Town of Severance does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the provision of services. For disabled persons needing reasonable accommodation to attend or participate in a town service, program, public meeting, or activity, call 970-686-1218 at least 72 hours in advance. Disabled access is available from the front entrance of the Town Hall.*



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

---

**REGULAR MEETING MINUTES**  
**Wednesday, May 21, 2025, at 6:00 PM**

**Chair:** Kris Quandt  
**Vice-Chair:** Joe Pirrone  
**Commissioners:** David Rau  
Dan Spykstra  
Julie Stout  
Derek Grimes  
Kevin Udy

**Audience:** None

**Staff:** Shani Porter, Planning Director  
Sarah Jacobsen, Town Clerk  
Regina Olson, Planner I  
Josh Ohalva, Ayres Associates

**A. CALL TO ORDER**

**1. Roll Call**

PRESENT: Chair Kris Quandt, Vice-Chair Joe Pirrone, Commissioner Julie Stout, Commissioner Derek Grimes, Commissioner Kevin Udy, Commissioner David Rau (arrived at 6:02 PM)  
ABSENT: Commissioner Dan Spykstra

**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.*

No public comment

#### 5. Approval of Minutes 4.16.25

**MOTION WAS MADE BY Vice-Chair Pirrone**, seconded by Commissioner Stout to Approve the meeting Minutes 4.16.25. All Commissioners present voting Yes. Commissioner Rau was not present for this vote.

**MOTION PASSED**

### B. REGULAR MEETING

#### 1. PUBLIC HEARING

**Resolution PC 2025- 07R: A Resolution of the Severance Planning Commission approving a Use by Special Review application to operate a Home Based Business on real property located within the Town of Severance, commonly known as 979 Mouflon Drive**

- Legislative
- Staff Presentation: Regina Olson, Planner

Chair Quandt recused himself after opening the public hearing at 6:03 p.m. and Vice-Chair Pirrone took over. Regina Olson Planner I, presented to the Commission with information on the application. Applicant Jacquelyn Russell presented to the Commission and answered questions.

Public comment opened at 6:15 p.m.

- Resident Heather Lang asked if the Metro District signed off on the home-based business and the process of if the Town approves first, then the Metro District.
- Susana Pavlovich and Josh Hunter live directly behind the proposed Home Base Business and work from home, and spoke in opposition with concerns of animal noise, property value, and
- Kaitlyn Cinnamon and Thomas Bernhoft spoke in favor of the application and came to learn more about the business.

Commissioner Grimes asked for clarification about taking the dogs outside on a leash. Jacquelyn replied that as a safety measure, she always has the dogs on a leash when outside. Commissioner Rau asked for clarification on the location of the dog run. Jacquelyn responded the dog run is located on the east side of the garage.

Town Manager Nicholas Wharton replied to Ms. Lang's licensing question that an approval letter from the Metro District is in the packet, and the Town acts separately from the Metro District.

Public comment closed at 6:28 p.m.

**MOTION WAS MADE BY Commissioner Stout**, seconded by Commissioner Grimes to Approve Resolution PC 2025- 07R: A Resolution of the Severance Planning Commission approving a Use by Special Review application to operate a Home Based Business on real property located within the Town of Severance, commonly known as 979 Mouflon Drive with the condition labeled "e". All Commissioners present voting Yes.

**MOTION PASSED**

#### 2. PUBLIC HEARING

**Resolution No. PC 2025-08R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Article 4 - Agreements and Dedications**

- Legislative
- Staff Presentation: Shani Porter, Planning Director  
Josh Ohalva, Town consultant with Ayres Associates, presented the redline changes to the Commission.  
The public hearing opened at 6:30 p.m. No public was present for comment, and the hearing closed at 6:44 p.m.  
**MOTION WAS MADE BY Commissioner Grimes**, seconded by Vice-Chair Pirrone to Approve Resolution No. PC 2025-08R: Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Article 4 - Agreements and Dedications. All Commissioners present voting Yes.

**MOTION PASSED**

### **C. COMMUNICATIONS**

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

1. Town Attorney
2. Town Staff  
Planning Director Shani Porter reported to the Commission that Arbor Day was a success and provided an overview of future meetings.
3. Town Management
4. Commission Members  
Commissioner Grimes announced he will not be present at the June 18, 2025.
5. Chair

### **D. ADJOURN**

**MOTION WAS MADE BY Vice-Chair Pirrone**, seconded by Commissioner Stout to adjourn. All Commissioners present voting Yes. The meeting adjourned at 6:52 p.m.

**MOTION PASSED**



# AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
Bower North Annexation	Shani Porter, Planning Director	Shani Porter, Planning Director
<b>ACTION REQUESTED</b>		
<p>Planning Staff requests that the Severance Planning Commission review and discuss the Bower North Annexation and forward a recommendation to the Town Council. Actions that may be taken:</p> <ol style="list-style-type: none"> <li>1. Forward a recommendation of approval to the Town Council for Bower North Annexation.</li> <li>2. Take No Action</li> </ol>		<p><b><u>Action Requested</u></b> <b><u>Annexation</u></b></p>
<b>BRIEF SUMMARY</b>		
<p>Platte Land and Water LLC (owners) are petitioning the Town of Severance to annex approximately 149.59 acres west of and adjacent to Teller Street (WCR 21), south of Hunters Crossing neighborhood and north of CR 72. A concept plan has been submitted with this annexation and will be viewed at this meeting.</p>		
<b>PUBLIC SUPPORT/CONCERN</b>		
None at this time.		
<b>ANALYSIS AND RECOMMENDATION</b>		
<p>In accordance with Section 16.19.50 (e) of the Municipal Code, the Town shall evaluate annexations according to the following criteria, which the applicant has demonstrated:</p> <ol style="list-style-type: none"> <li>(1) The annexation complies with the Municipal Annexation Act of 1965, as amended (C.R.S. 31-12-101 et seq.).</li> <li>(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.</li> <li>(3) The proposed annexation promotes geographical balance of the Town's land use pattern.</li> <li>(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).</li> <li>(5) The annexation shall be shown not to create any additional cost or burden on the then-existing residents of the Town.</li> <li>(6) The applicant has demonstrated that the proposed annexation follows all pertinent</li> </ol>		

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.

The Planning Department has reviewed this application and finds it generally meets the criteria for review of annexation into the Town. Planning staff asks that the Planning Commission review and discuss the Bower North Annexation and forward a recommendation to the Town Council

### **MATERIALS SUBMITTED**

The following materials were submitted and included in this packet:

1. Bowers North Annexation Petition
2. Bower North - 3rd Submittal - Annexation Map
3. Bower North - 3rd Submittal - Zoning Map
4. Bower North\_Impact Report 6.21.24
5. Items sent to Special District
6. Concept 3\_4.18.25
7. Zoning Map\_Bower North 6.21.24
8. Bower North - 3rd Submittal - Rural Residential Legal
9. Bower North - 3rd Submittal - Suburban Perimeter Legal

**PETITION FOR ANNEXATION TO THE TOWN OF SEVERANCE, COLORADO**

The undersigned, in accordance with the Municipal Annexation Act of 1965 as set forth Title 31, Article 12, Chapters 101 et. Seq., Colorado Revised Statutes ("Annexation Act"), hereby petition the Mayor and Councilors of the Town of Severance, Colorado ("Town"), for annexation into the Town the unincorporated territory located in Weld County, Colorado, which is more particularly described and depicted on the map designated as "Bower North Annexation Map" attached hereto as **Exhibit A** and incorporated herein by reference.

In support of this petition, the petitioner(s) allege(s) that:

1. The legal description of the land owned by Petitioner and hereby petitioned for annexation into the Town ("Property") is set forth on **Exhibit A**, attached hereto and incorporated herein by this reference.
2. It is desirable and necessary that the Property be annexed to the Town of Severance, Colorado.
3. The requirements of C.R.S. §§ 31-12-104 and 31-12-105 exist or have been met in that:
  - a. Not less than one-sixth of the perimeter of the Property is contiguous with the Town of Severance or will be contiguous with the Town of Severance within such time as required by C.R.S. § 31-12-104;
  - b. A community of interest exists between the Property and the Town of Severance;
  - c. No land within Property which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcel without the written consent of the landowner or landowners thereof, except and unless such tracts or parcels are separated by a dedicated street, road or other public way;
  - d. No land within the boundary of the Property which is held in identical ownership, comprising twenty (20) acres or more and which, together with the buildings and improvements situated thereon, has an assessed value in excess of Two Hundred Thousand Dollars (\$200,000.00) for ad valorem tax purposes for the year preceding the annexation, has been included within the territory proposed to be annexed without the written consent of the landowner or landowners;
  - e. The Property is not part of any incorporated city, city and county, or town; nor have any annexation or incorporation proceedings been commenced in an area that is part of all of the Property; nor has any election for annexation of the Property or substantially the same territory to the Town been held within the twelve (12) months immediately preceding the filing of this Petition;

- f. The annexation of the Property will not result in the detachment of area from any school district or attachment of same to another school district;
  - g. The annexation of the Property will not have the effect of extending the boundary of the Town of Severance more than three miles in any direction from any point of the boundary of the Town of Severance in any one year;
  - h. The proposed annexation will not result in the denial of reasonable access to any landowner, easement holder, or owner of a franchise adjoining a platted street or alley which has been annexed by the Town but is not bounded on both sides by the Town; and
  - i. In establishing the boundary of the territory proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the territory to be annexed.
4. Petitioner is the owner of one hundred percent (100%) of the Property, and Petitioner hereby consents to the establishment of the boundaries of the territory to be annexed as shown in the annexation maps submitted herewith.
5. The affidavit of the circulator of this Petition certifying that the signature on this Petition is the signature of each person whose name it purports to be certifying -the accuracy of the date of such signatures is attached hereto as Exhibit B and is incorporated herein by this reference.
6. Petitioner and the Town specifically acknowledge an Annexation Agreement has been or will be executed by Petitioner and the Town relating to this annexation shortly after the execution of this Petition.
7. Upon the annexation of the Property becoming effective, and subject to the conditions to be set forth in the Annexation Agreement, the Property shall become subject to all ordinances, resolutions, rules and regulations of the Town, except for general property taxes of the Town, which shall become effective on January 1 of the next succeeding year following adoption of the annexation ordinance.
8. Except for the terms and conditions of this Petition and of the Annexation Agreement, which terms and conditions Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of Section 31- 12-107 (l)(g) of the Annexation Act, Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the Town.
9. Accompanying this petition are four copies of an annexation map containing the following information:

- a. A written legal description of the boundaries of the area proposed to be annexed;
  - b. A map showing the boundary of the area proposed to be annexed, said map prepared by and containing the seal of a registered engineer;
  - c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
  - d. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town of Severance and the contiguous boundary of any other municipality abutting the area proposed to be annexed, and a showing of the dimensions of such contiguous boundaries.
10. Petitioner hereby reserves the sole, exclusive and unilateral right to withdraw this Petition by so notifying the Town Clerk in writing at any time prior to: (i) the effective date of the ordinances annexing and zoning the Property; or (ii) the satisfaction of the conditions precedent to the annexation effectiveness to be set forth in the Annexation Agreement.

THEREFORE, the undersigned respectfully petition the Town Council of the Town of Severance to annex the territory described and referenced in Bower North Annexation Map to the Town of Severance in accordance with and pursuant to the Annexation Act.

Respectfully submitted this \_\_\_\_ day of \_\_\_\_\_, 2024. By this acknowledgment, the undersigned hereby certify that the above information is complete and true.

*[Remainder of page intentionally left blank-Signature page to follow]*



Signatures of Petitioners

*[Handwritten signatures]*

PLATTE LAND AND WATER LLC

-----

STATE OF Illinois)

) ss.

COUNTY OF Lake )

The foregoing instrument was acknowledged before me this 30 day of July, 2027, by NAME(s).

Witness my hand and official seal.

Elizabeth A. Costa  
(Notary Public Official Signature)

Elizabeth A. Costa  
(Printed Name of Notary)

01-18-2028  
(Commission Expiration)





**PROPERTY DESCRIPTION**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 619.87 FEET, TO A POINT ON THE EXISTING BOUNDARY OF THE TOWN OF SEVERANCE, AS ANNEXED IN HUNTERS CROSSING ANNEXATION AND ZONING MAP NUMBER 1 RECORDED UNDER RECEPTION NO. 4431194;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, N86°11'12"E A DISTANCE OF 1970.99 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN PLAT OF THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION AND THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'51"E A DISTANCE OF 2606.37 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 2570.32 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 6,516,210 SQUARE FEET OR 149.5916 ACRES.

EXHIBIT ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

**PROPERTY DESCRIPTION STATEMENT**

I, JARROD ADAMS, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

JARROD ADAMS, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 38252  
FOR AND ON BEHALF OF JR ENGINEERING, LLC



Affidavit of Circulator

The undersigned, being of lawful age, who being first duly sworn upon oath deposes and says:

That (s)he was the circulator of the foregoing Petition for Annexation of lands to the Town of Severance, Colorado, consisting of 5 pages, excluding the page(s) of this affidavit, and that the signatures of the petitioners thereon were witnessed by the circulator and are the true and original signatures of the persons whose names they purport to be, and that the dates of such signatures are correct.

[Handwritten Signature]

Circulator: \_\_\_\_\_

STATE OF Illinois )  
 ) SS.  
COUNTY OF Lake )

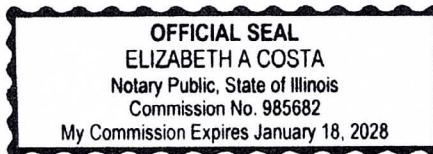
The forgoing AFFIDAVIT OF CIRCULATOR was subscribed and sworn to before me this 30 day of, July 2024, by Timothy Walsh.

Witness my hand and official seal:

[Handwritten Signature: Elizabeth A. Costa]

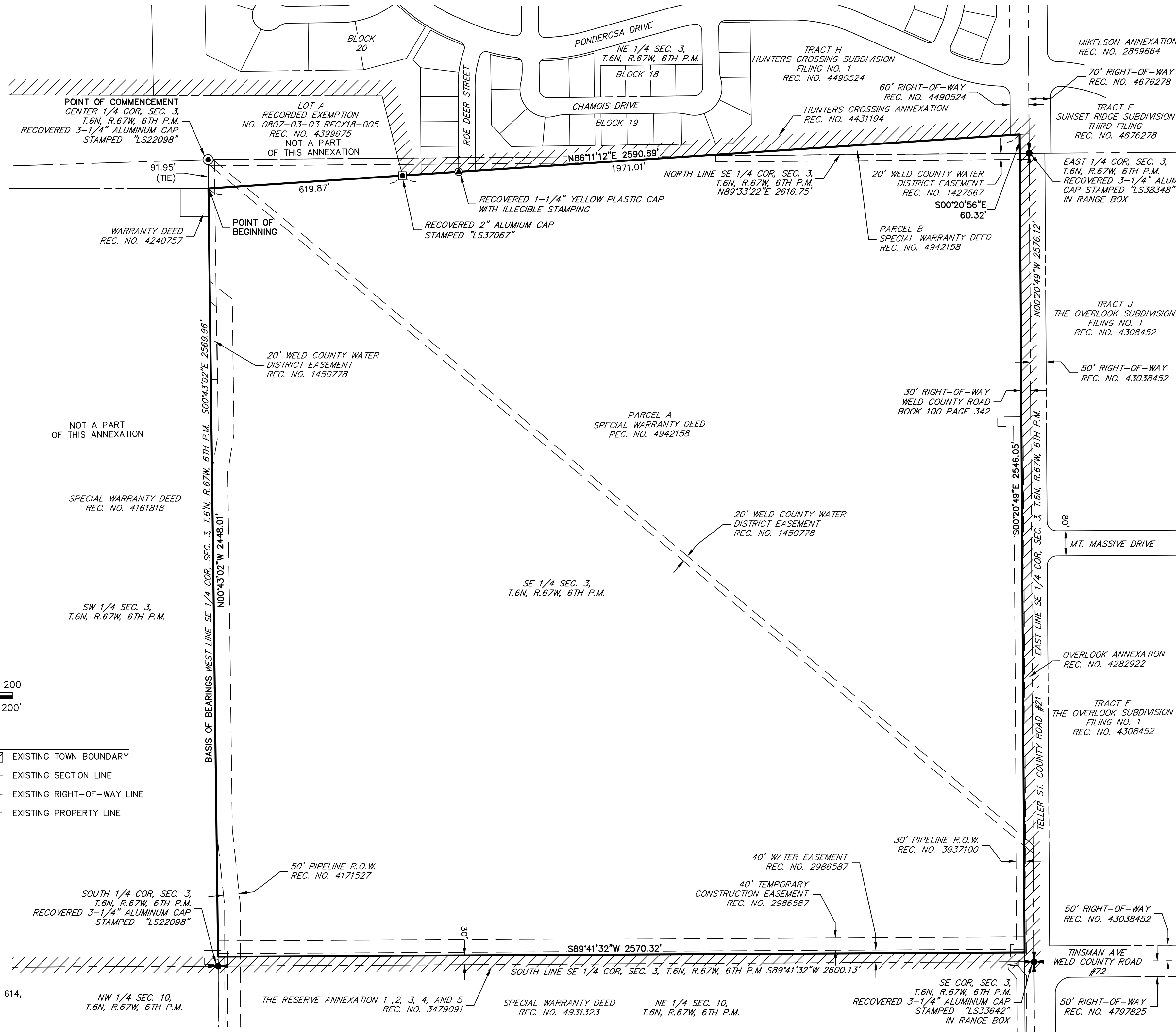
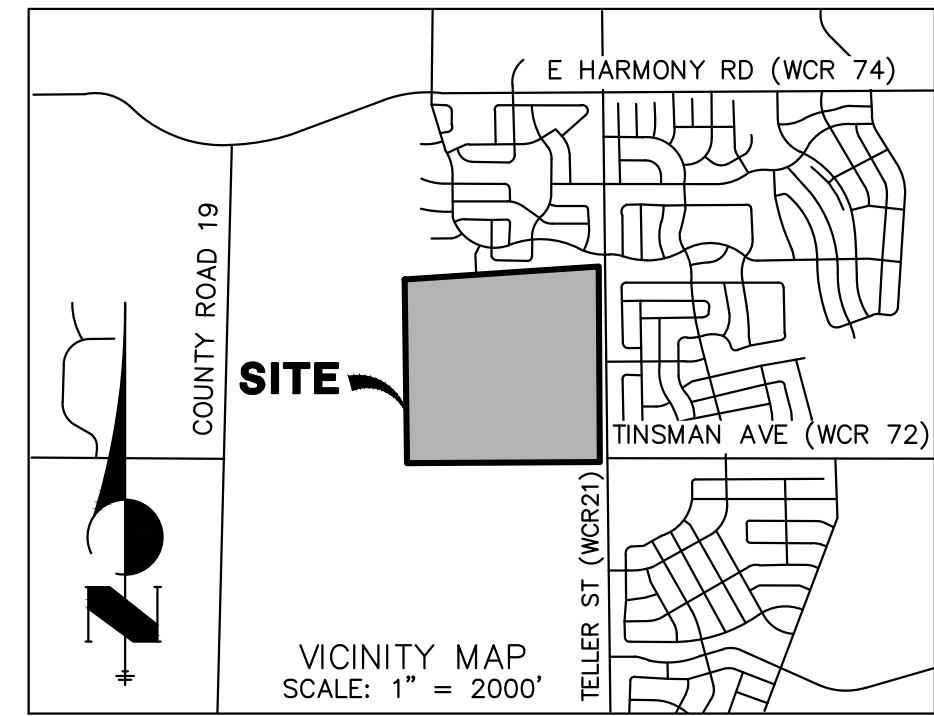
Notary Public Commission

Expires: 01-18-2028



# BOWER NORTH ANNEXATION

TO THE TOWN OF SEVERANCE, COLORADO  
 LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH P.M.  
 COUNTY OF WELD, STATE OF COLORADO  
**149.59 ACRES**



### OWNERS APPROVAL AND DEDICATION

THE UNDERSIGNED, BEING SOLE OWNERS OF THE LAND DESCRIBED HEREIN, HAVE CAUSED SAID LAND TO BE LAID OUT AND ANNEXED UNDER THE NAME OF BOWER NORTH ANNEXATION.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

OWNER: PLATTE LAND & WATER, LLC, A DELAWARE LIMITED LIABILITY COMPANY  
 BY: \_\_\_\_\_ AS \_\_\_\_\_ OF PLATTE LAND & WATER, LLC

STATE OF \_\_\_\_\_ }  
 COUNTY OF \_\_\_\_\_ } SS

### NOTARIAL CERTIFICATE

STATE OF \_\_\_\_\_ }  
 COUNTY OF \_\_\_\_\_ } SS  
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY \_\_\_\_\_ AS \_\_\_\_\_ OF \_\_\_\_\_, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_  
 MY COMMISSION EXPIRES: \_\_\_\_\_

### LENDER CONSENT

THE UNDERSIGNED, \_\_\_\_\_ A \_\_\_\_\_ BANKING CORPORATION, AS THE BENEFICIARY OF A DEED OF TRUST RECORDED WITH THE WELD COUNTY CLERK AND RECORDER AT \_\_\_\_\_ AND THAT CONSTITUTES A LIEN UPON THE OWNER'S PROPERTY, HEREBY CONSENTS TO THE ANNEXATION OF

"BOWER NORTH," AND HEREBY FOREVER RELEASES SAID LANDS FROM SAID LIEN.  
 LIENHOLDER: \_\_\_\_\_

BY: \_\_\_\_\_

### NOTARIAL CERTIFICATE

STATE OF \_\_\_\_\_ }  
 COUNTY OF \_\_\_\_\_ } SS  
 THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY \_\_\_\_\_ AS \_\_\_\_\_ OF \_\_\_\_\_, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_  
 MY COMMISSION EXPIRES: \_\_\_\_\_

### DESCRIPTION

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

- COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,
- TENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;
  - TENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 619.87 FEET, TO A POINT ON THE EXISTING BOUNDARY OF THE TOWN OF SEVERANCE, AS ANNEXED IN HUNTERS CROSSING ANNEXATION AND ZONING MAP NUMBER 1 RECORDED UNDER RECEPTION NO. 4431194;
  - TENCE ON SAID EXISTING TOWN BOUNDARY LINE, N86°11'12"E A DISTANCE OF 1971.01 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN PLAT OF THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;
  - TENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION, S00°20'56"E A DISTANCE OF 60.32 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3;
  - THE DEPARTING SAID NORTH LINE, ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'49"E A DISTANCE OF 2546.05 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;
  - TENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 2570.32 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;
  - TENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01, TO THE POINT OF BEGINNING.
- CONTAINING A CALCULATED AREA OF 6,516,244 SQUARE FEET OR 149.59 ACRES.

### SURVEYORS CERTIFICATE

I, JARROD ADAMS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE MAP HEREIN IS A CORRECT DELINEATION OF THE DESCRIBED PARCEL OF LAND AND THAT IT IS CONTIGUOUS TO THE TOWN OF SEVERANCE, COLORADO AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 31-12-104-(1) (c) THAT ONE-SIXTH (1/6) OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

JARROD ADAMS, PROFESSIONAL LAND SURVEYOR  
 COLORADO NO. 38252  
 FOR AND ON BEHALF OF JR ENGINEERING, LLC  
 7200 S. ALTON WAY SUITE C400  
 CENTENNIAL CO, 80112



### GENERAL NOTES:

- THIS SITE IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN. FLOODPLAIN INFORMATION WAS OBTAINED FROM F.E.M.A. FLOODPLAIN AS SHOWN ON THE FLOOD INSURANCE RATE MAP PANEL 08123C1200E, EFFECTIVE DATE JANUARY 20, 2016
- THIS SITE IS AFFECTED BY THE MEMORANDUM OF AGREEMENT RECORDED UNDER RECEPTION NO. 3980881 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, IN CONNECTION TO PLACING ALL PERSONS ON NOTICE OF THE EXISTENCE OF THE SURFACE USE AGREEMENT.

4	REVISED PER CITY COMMENTS	04/10/2025
3	REVISED PER CITY COMMENTS	12/12/2024
2	REVISED PER CITY COMMENTS	8/13/2024
1	UPDATED DRAWING PER CHECKLIST	5/17/2024

ANNEXATION  
 BOWER NORTH  
 JOB NO. 39829.00  
 MARCH 29, 2024  
 SHEET 1 OF 1



Centennial 303-740-9393 • Colorado Springs 719-593-2593  
 Fort Collins 970-491-9888 • www.jrengineering.com



**LEGEND**

	EXISTING TOWN BOUNDARY
	EXISTING SECTION LINE
	EXISTING RIGHT-OF-WAY LINE
	EXISTING PROPERTY LINE

**OWNER CONTACT**  
 PLATTE LAND AND WATER  
 TIM WALSH  
 3900 E. MEXICO AVE. SUITE 614,  
 DENVER CO, 80210  
 PHONE: 720-510-8082  
 TIM@PLATTEASSETS.COM

### TOWN COUNCIL CERTIFICATE

THIS IS TO CERTIFY THAT THE BOWER NORTH ANNEXATION WAS APPROVED ON THE \_\_\_\_ DAY OF \_\_\_\_ 20\_\_ BY ORDINANCE NO. \_\_\_\_ PASSED AND ADOPTED AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF SEVERANCE, HELD ON THIS \_\_\_\_ DAY OF \_\_\_\_ 20\_\_ AND MAY BE FILED WITH THE CLERK AND RECORDER OF WELD COUNTY. THE MAYOR OF THE TOWN OF SEVERANCE ON BEHALF OF THE TOWN OF SEVERANCE HEREBY ACKNOWLEDGES SAID ANNEXATION UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR \_\_\_\_\_ ATTEST: \_\_\_\_\_ TOWN CLERK

### TOWN ENGINEER'S REVIEW

REVIEWED THIS \_\_\_\_ DAY OF \_\_\_\_ 20\_\_  
 TOWN ENGINEER \_\_\_\_\_

### TOWN PLANNER'S REVIEW

REVIEWED THIS \_\_\_\_ DAY OF \_\_\_\_ 20\_\_  
 TOWN PLANNER \_\_\_\_\_

### CONTIGUITY STATEMENT

- TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION = 10,215.59 FEET.
  - ONE-SIXTH OF TOTAL PERIMETER OF AREA = 1,702.59 FEET.
  - PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING CITY LIMITS = 7,147.70 FEET.
- THE TOTAL CONTIGUOUS PERIMETER IS 69.97%, WHICH EXCEEDS THE ONE-SIXTH (1/6) AREA REQUIRED.

### PLANNING COMMISSION REVIEW

RECOMMENDED FOR APPROVAL THIS \_\_\_\_ DAY OF \_\_\_\_ 20\_\_  
 CHAIRMAN \_\_\_\_\_  
 SEVERANCE PLANNING COMMISSION

# BOWER NORTH ZONING MAP

LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH P.M.  
TOWN OF SEVERANCE, COUNTY OF WELD, STATE OF COLORADO  
149.59 ACRES

**PURPOSE:**

TO ZONE NEWLY ANNEXED LAND INTO TWO ZONE DISTRICTS.

**OVERALL ZONING AREA DESCRIPTION:**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 619.87 FEET, TO A POINT ON THE EXISTING BOUNDARY OF THE TOWN OF SEVERANCE, AS ANNEXED IN HUNTERS CROSSING ANNEXATION AND ZONING MAP NUMBER 1 RECORDED UNDER RECEPTION NO. 4431194;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, N86°11'12"E A DISTANCE OF 1971.01 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN PLAT OF THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION, S00°20'56"E A DISTANCE OF 60.32 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3;

THE DEPARTING SAID NORTH LINE, ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'49"E A DISTANCE OF 2546.05 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 2570.32 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 6,516,244 SQUARE FEET OR 149.59 ACRES.

**RURAL RESIDENTIAL ZONE DISTRICT:**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 1116.32 FEET;

THENCE DEPARTING SAID NORTHERLY LINE, S00°09'12"E A DISTANCE OF 2516.22, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY, S89°41'32"W A DISTANCE OF 1089.96 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01 FEET, TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 2,735,665 SQUARE FEET OR 62.80 ACRES.

**SUBURBAN PERIMETER ZONE DISTRICT:**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 1116.32 FEET, TO THE POINT OF BEGINNING;

THENCE CONTINUING ON SAID NORTHERLY LINE, N86°11'12"E A DISTANCE OF 1474.57 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION, S00°20'56"E A DISTANCE OF 60.32 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3;

THE DEPARTING SAID NORTH LINE, ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'49"E A DISTANCE OF 2546.05 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 1480.37 FEET;

THENCE DEPARTING SAID EXISTING TOWN BOUNDARY, N00°09'12"W A DISTANCE OF 2516.22 FEET, TO THE POINT OF BEGINNING.

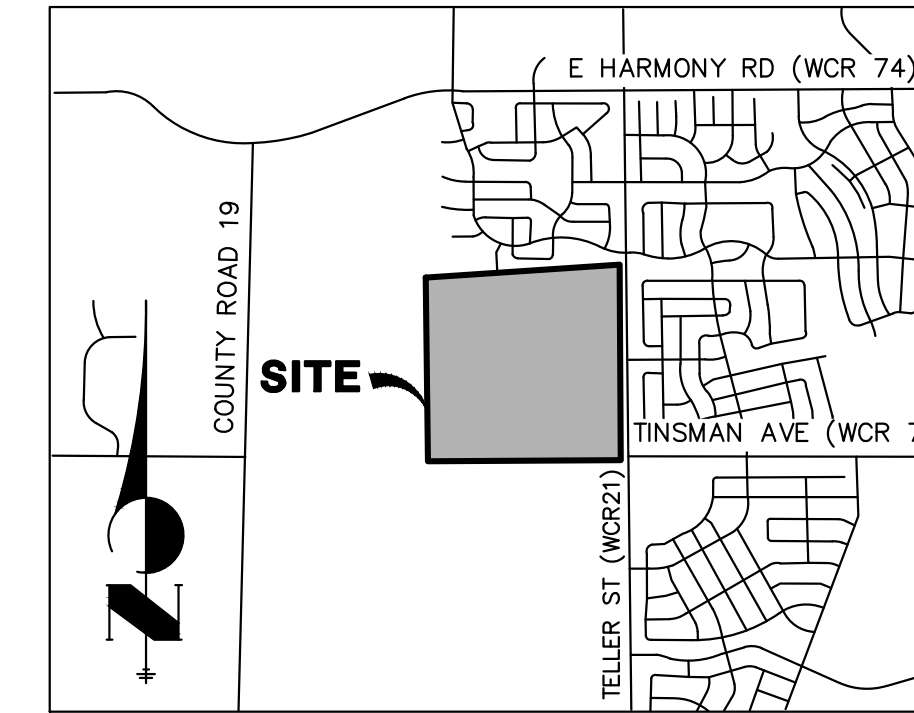
CONTAINING A CALCULATED AREA OF 3,780,580 SQUARE FEET OR 86.79 ACRES.

**ZONING - RURAL RESIDENTIAL:**

THE INTENT OF THE RURAL RESIDENTIAL LAND USE CATEGORY IS TO PROVIDE LOW-DENSITY, SINGLE-FAMILY RESIDENTIAL DEVELOPMENT WITHIN THE TOWN'S OUTER FRINGE. THE CURRENT LAND IS PREDOMINANTLY RURAL AND AGRICULTURAL, WITH SOME EXISTING RESIDENTIAL SUBDIVISION DEVELOPMENTS THAT ARE CONSISTENT WITH THE FUTURE VISION OF THE COMPREHENSIVE PLAN. THESE AREAS MAY HAVE CENTRALIZED WATER BUT ARE NOT SERVED BY CENTRAL SEWER. TYPICALLY, THE EXISTING ROADWAY NETWORK IS LIMITED TO RURAL ROADS SPACED IN ONE (1)-MILE INTERVALS THAT CORRESPOND TO SECTION LINES. RURAL RESIDENTIAL DEVELOPMENT IN THIS PLANNING AREA IS INTENDED TO BE LARGE-LOT RESIDENTIAL SUBDIVISIONS WITH A PREDETERMINED NUMBER OF ACRES PER LOT COMBINED WITH THE LIMITATIONS OF INFRASTRUCTURE THAT MAY BE ACCESSIBLE OR OBTAINABLE.

**ZONING - SUBURBAN PERIMETER:**

THE SUBURBAN PERIMETER RESIDENTIAL LAND USE CATEGORY HAS A PREDOMINANCE OF LOWER DENSITY HOUSING THAT HAS ACCESS TO PUBLIC WATER, SEWER, STREETS AND OPEN SPACES. THIS DISTRICT IS MEANT FOR RESIDENTIAL HOMES AND EXCLUDES LARGE INDUSTRIES AND OTHER LARGE INTENSE USES. HOME BUSINESSES, CIVIC ORGANIZATIONS AND SOME TYPES OF COMMERCIAL AND AGRICULTURAL USES ARE ALLOWED BUT WILL BE LIMITED IN SIZE AND DENSITY. THE MAIN PURPOSE OF THIS DISTRICT IS TO MEET A WIDE RANGE OF HOUSING CHOICES, AND TO PROVIDE NEIGHBORHOODS THAT INVITE WALKING TO GATHERING PLACES, SERVICES AND CONVENIENCES THAT ARE INTEGRATED INTO THE REST OF THE COMMUNITY BY A PATTERN OF STREETS, BLOCKS AND OTHER LINKAGES.



VICINITY MAP  
SCALE: 1" = 2000'

ZONING LEGEND			
PLANNING AREA	ZONING	USE	AREA (ACRES)
P1&2	RURAL RESIDENTIAL	SFD	62.8
PA3, 4, 5, & 6	SUBURBAN PERIMETER	SFD & SFA	86.8

**PLANNING COMMISSION REVIEW:**

RECOMMENDED FOR APPROVAL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

CHAIRMAN \_\_\_\_\_  
SEVERANCE PLANNING COMMISSION

**TOWN COUNCIL CERTIFICATE:**

THIS IS TO CERTIFY THAT THE ZONING FOR THE BOWER NORTH ANNEXATION WAS APPROVED ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ BY ORDINANCE NO. \_\_\_\_\_, PASSED AND ADOPTED AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF SEVERANCE, HELD ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ AND MAY BE FILED WITH THE CLERK AND RECORDER OF WELD COUNTY. THE MAYOR OF THE TOWN OF SEVERANCE ON BEHALF OF THE TOWN OF SEVERANCE HEREBY ACKNOWLEDGES SAID ZONING UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR \_\_\_\_\_ ATTEST: \_\_\_\_\_  
TOWN CLERK

**GENERAL NOTES:**

- THIS SITE IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN. FLOODPLAIN INFORMATION WAS OBTAINED FROM F.E.M.A. FLOODPLAIN AS SHOWN ON THE FLOOD INSURANCE RATE MAP PANEL 08123C1200E, EFFECTIVE DATE JANUARY 20, 2016
- THIS SITE IS AFFECTED BY THE MEMORANDUM OF AGREEMENT RECORDED UNDER RECEPTION NO. 3980881 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, IN CONNECTION TO PLACING ALL PERSONS ON NOTICE OF THE EXISTENCE OF THE SURFACE USE AGREEMENT.

**SURVEYORS CERTIFICATE:**

I, JARROD ADAMS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE MAP HEREIN IS A CORRECT DELINEATION OF THE DESCRIBED PARCEL OF LAND.

JARROD ADAMS, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 38252  
FOR AND ON BEHALF OF JR ENGINEERING, LLC  
7200 S. ALTON WAY SUITE C400  
CENTENNIAL CO, 80112



**OWNER CONTACT**

PLATTE LAND AND WATER  
TIM WALSH  
3900 E. MEXICO AVE. SUITE 614,  
DENVER CO, 80210  
PHONE: 720-510-8082  
TIM@PLATTEASSETS.COM

4		
3		
2		
1		

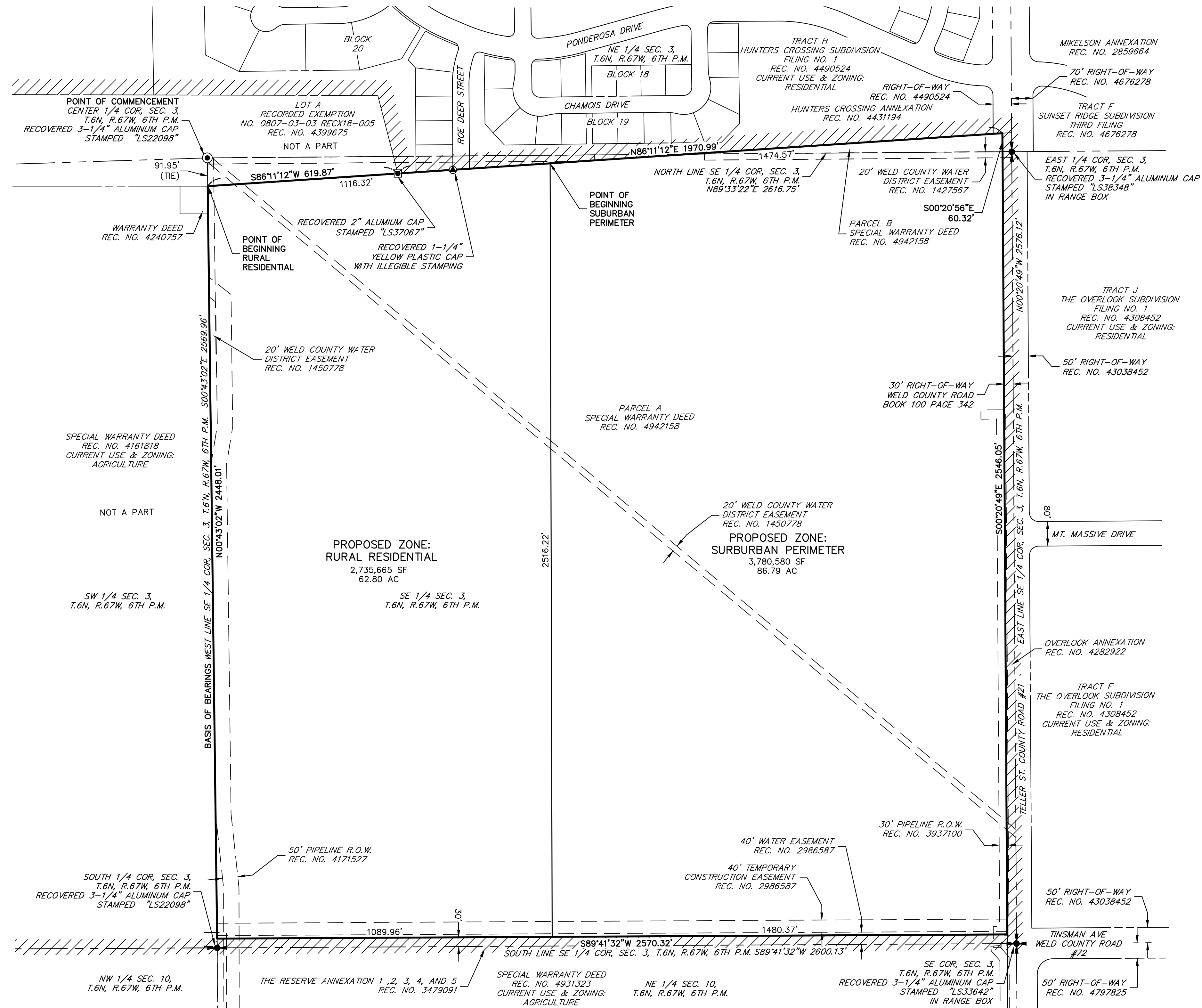
ZONING MAP  
BOWER NORTH  
JOB NO. 39829.00  
APRIL 11, 2025  
SHEET 1 OF 2



Centennial 303-740-9393 • Colorado Springs 719-593-2593  
Fort Collins 970-491-9888 • www.jrengineering.com

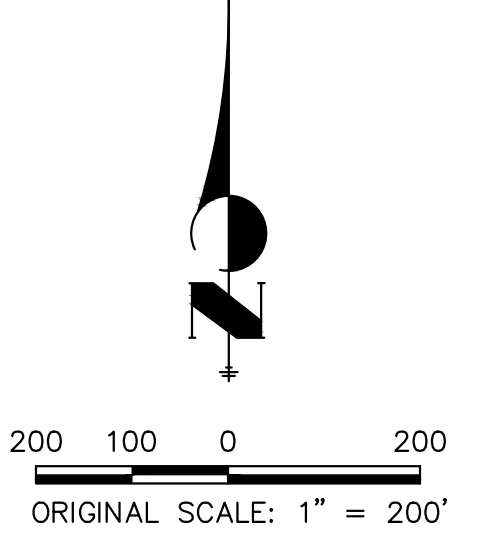
# BOWER NORTH ZONING MAP

LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH P.M.  
TOWN OF SEVERANCE, COUNTY OF WELD, STATE OF COLORADO  
149.59 ACRES



**LEGEND**

	EXISTING TOWN BOUNDARY
	EXISTING SECTION LINE
	EXISTING RIGHT-OF-WAY LINE
	EXISTING PROPERTY LINE
	PROPOSED ZONING LINE



4	
3	
2	
1	

ZONING MAP  
BOWER NORTH  
JOB NO. 39829.00  
APRIL 11, 2025  
SHEET 2 OF 2



Centennial 303-740-9393 • Colorado Springs 719-593-2593  
Fort Collins 970-491-9888 • www.jrengineering.com

June 21, 2024

Town of Severance, Colorado  
3 South Timber Ridge Parkway  
Severance, Colorado 80546

## RE: Bower North – Annexation Impact Report

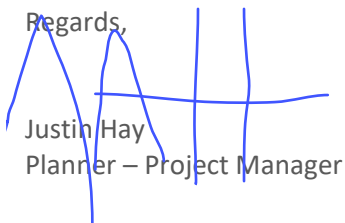
Dear Town Staff,

The Bower North Team is formally requesting the annexation and zoning of our project known as ‘Bower North’. Our team has a mission to provide a well-designed, cohesive community with quality homes, connected open space, and streetscapes connecting adjacent communities and the Town. Bower North is comprised of approximately 153 acres and is planned to have a diverse mix of residential homes consisting of single family detached and attached products on both rural and suburban zoned planning areas.

The following report analyzes the proposed developments’ impact with respect to the Town of Severance and Weld County’s services and other factors.

We look forward to the Town’s feedback on our project and are enthusiastic about the opportunity to be a part of Severance’s vibrant, growing community.

Regards,



Justin Hay  
Planner – Project Manager

# Annexation Impact Report

For

## Bower North

Severance, Colorado

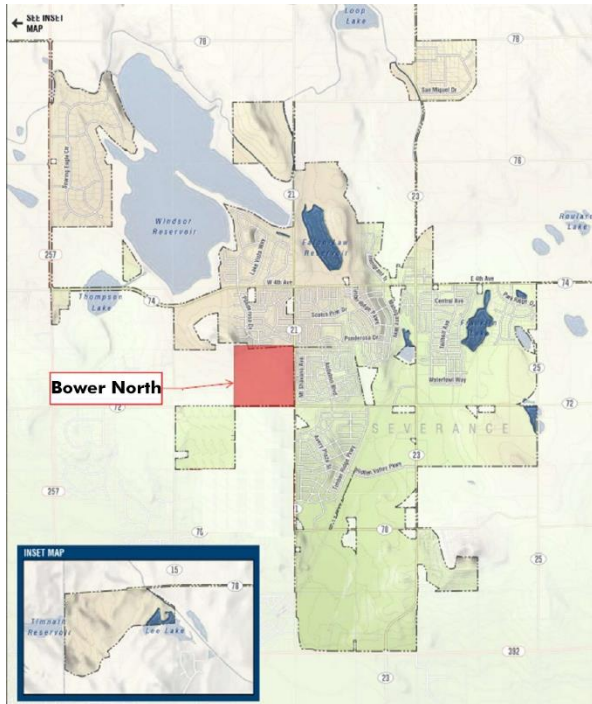
June 21, 2024

### Project Location

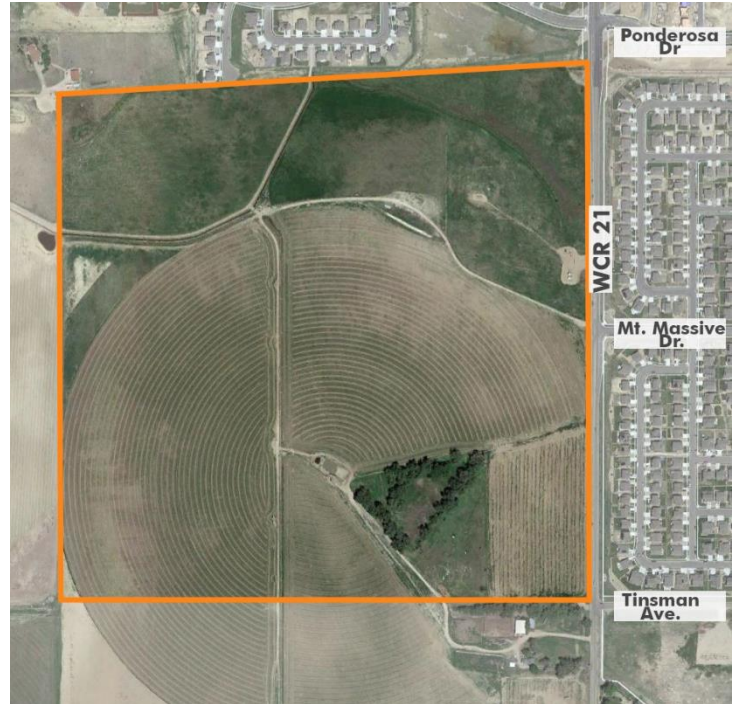
Bower North is approximately 153 acres located in Weld County, Colorado. The property's borders included:

- North: 'Severance Reserve', an existing single family residential community.
- East: Weld County Road 21 and 'The Overlook', an existing single family residential community.
- South: Undeveloped farmland
- West: Undeveloped farmland

The area to be developed is located within the Town of Severance Sub-Urban Perimeter zone as designated by the Comprehensive Plan.



> Context Exhibit



> Site Exhibit

## Proposed Land Uses

Bower North has a diverse mix of residential homes consisting of single family detached and attached products on both rural and suburban zoned planning areas. The concept plan complies with the current, Town comprehensive plan. The community will be designed with an organization of streetscapes, detached walks, parks, open space, and connected trail systems. Our project will continue Severance’s connection to existing and future neighborhoods and align with the Town’s future growth strategies.

The theme of the development is to fit within Severance’s design and community character, building on the contemporary farm, craftsman, and agrarian design vernacular of the region. The neighborhood planning areas will be comprised of a diverse mix of lot sizes and residential product types.

The following table outlines the site data and proposed density for Bower North:

Planning Area (PA)	Comp. Plan Zoning	PA Gross Acres	Square Feet	Lot Qty	Min. Lot Size
1	Rural	33.1	1,443,754	20	1.25 Acre
2	Rural	30.1	1,310,750	16	1.25 Acre
3	Suburban: SFD	30.9	1,344,295	85	6,000 SF
4	Suburban: SFA	10.4	452,352	127	4,000 / 1,400 SF
5	Suburban: SFA	9.7	421,819	68	4,000 / 1,400 SF
6	Suburban: SFD	30.1	1,312,376	126	6,000 SF
<b>Totals</b>		<b>144.3</b>	<b>6,285,346</b>	<b>442</b>	

## Annexation Agreement

Per Colorado Revised Statutes 2013 134 Title 134, an agreement will be drafted between the property owner and municipality outlining the responsibilities of each party.

## Domestic Water and Sanitary Sewer

The Site is located within the North Weld County Water District (NWCWD) which will provide domestic water and sanitary sewer treatment for the project.

- **Water**

There are existing NWCWD domestic waterlines adjacent to the Site, and it is anticipated that connections to the mains will be made to service the development in the future. Currently NWCWD has a moratorium on providing additional water taps for single-family residential units. This is due to a lack of infrastructure within the area for NWCWD to provide the quantity of water within their system to serve additional units in the Town of Severance and surrounding area.

Currently NWCWD is working on designs to increase their capacity and provide domestic water service to the Town of Severance. Timing for the completion of this project is currently unknown, and it may be a few years until domestic water taps are available in the Town.

The western half of the site is zoned for larger lots, and individual domestic wells may be utilized to service these lots. The option for a small domestic water system may be considered to serve these lots as well.

- **Sewer**

Existing sanitary sewer main lines are located in the vicinity of the Site, and it is anticipated that sanitary sewer flows will be conveyed to the northeast where they will tie into the existing sewer system. Based upon maps and information provided by NWCWD and the Town, the sanitary sewer mains have the capacity to service the development of the Site. However, the Town does not currently have a Wastewater Treatment Plant (WWTP) and flows are routed to the Windsor Treatment Facility which is currently at capacity. Currently Windsor is working on design to expand their WWTP. The Town of Severance is working directly with Windsor to acquire additional capacity within the WWTP to serve upcoming developments.

The western half of the site is zoned for larger lots, and based on the size of these lots that are developed individual septic systems may be utilized to service these lots.

### **Traffic Impacts**

The proposed densities of the development have been accounted for in the Town's Comprehensive Plan as well as Master Transportation Planning. A Traffic Impact Study (TIS) has been prepared to analyze the traffic generated by the development and the impacts on the surrounding roadways. The Site is not anticipated to have a negative impact the Town's existing roadway system. Auxiliary and turn lanes will be constructed for the access points in and out of the Site along the main arterial roadways adjacent to the Site.

### **Municipal Services**

The area to be annexed as described by the attached legal description will receive the following municipal services from the stated agencies:

- **Police:** Town of Severance Police. The Bower North neighborhood will not require additional, special security measures and can be patrolled as part of the Severance Police Department.
- **Fire & Emergency Services:** Windsor Severance Fire Rescue. Roadways and access will comply with Town standards. Construction methods and fire prevention will adhere to building codes.
- **Schools:** Weld County RE-4 District.
- **Library District:** Clearview Library District
- **Electric/Communication Service:** United Power

### **Economic Impact**

A Metropolitan District is anticipated to be established as the authority to finance all public improvements within and adjacent to the property. The district will convey public infrastructure to the Town and will establish the means for ongoing maintenance. The district will also provide the administration and control services for the community such as establishing and enforcing the architectural standards and lot landscaping requirements. The details of the district's organization, obligations and financial structure will be provided in a formal Service Plan conforming to all legal standards.

The community is designed to attract a diverse base of residents that will value the community and appreciate the Town of Severance. Residents will be able to visit the town and surrounding communities through connected open spaces and streetscapes, adding to the economic growth and local spending within the area. Existing commercial and retail locations will be further supported by these community residents, and increased demand for services will attract additional businesses adding to the Town's tax base.

### **School District Impact**

Bower North property is within the Weld County School District RE-4. The Bower team has initiated contact with the district and will work with the District and Town to determine student generation by new housing.

### **Environmental Impacts**

Existing land use has been agriculture and farmland. There is an irrigation ditch and small irrigation pond in the central area of the property. Detention of storm water runoff will be accommodated in ponds incorporated into public open spaces and additional storage above the operational level of the reservoir. The stormwater design will be accomplished by identifying specific grading and drainage patterns relative to the site and applying standard practices for this region for conveyance and detention. The stormwater design will be based on the subdivision layout and existing topography. The internal street system will be used to convey stormwater runoff to the detention system within the open spaces. The runoff will be mitigated by the detention system and released at a historic rate. The drainage design and a final report will be completed and provided for review and approval. It is not anticipated that existing systems downstream of the subdivision will require modification to accommodate the development since historic rates will be maintained.



September 6, 2024

**RE: Bowers North Annexation**

To Whom It May Concern:

Per C.R.S. 31-12-108(2), the purpose of this letter is to provide a copy of the published notice, together with a copy of the resolution, and petition for annexation, as filed, to the Board of County Commissioners, the County Attorney, and any Special Districts within the proposed area to be annexed.

Within this packet, you will find the following items:

- Petition for Annexation
- Resolution Finding Petition for Annexation to be in Substantial Compliance
- Public Notice Published in the Greeley Tribune
- Annexation Maps
- Vicinity Map
- Impact Report

If you have any questions, you may contact Shani Porter, [sporter@townofseverance.org](mailto:sporter@townofseverance.org) or by phone at 970-686-1218

Cordially,  
TOWN OF SEVERANCE

A handwritten signature in blue ink, appearing to read "Shani Porter".

Shani Porter  
Planning Director

**PETITION FOR ANNEXATION TO THE TOWN OF SEVERANCE, COLORADO**

The undersigned, in accordance with the Municipal Annexation Act of 1965 as set forth Title 31, Article 12, Chapters 101 et. Seq., Colorado Revised Statutes ("Annexation Act"), hereby petition the Mayor and Councilors of the Town of Severance, Colorado ("Town"), for annexation into the Town the unincorporated territory located in Weld County, Colorado, which is more particularly described and depicted on the map designated as "Bower North Annexation Map" attached hereto as **Exhibit A** and incorporated herein by reference.

In support of this petition, the petitioner(s) allege(s) that:

1. The legal description of the land owned by Petitioner and hereby petitioned for annexation into the Town ("Property") is set forth on **Exhibit A**, attached hereto and incorporated herein by this reference.
2. It is desirable and necessary that the Property be annexed to the Town of Severance, Colorado.
3. The requirements of C.R.S. §§ 31-12-104 and 31-12-105 exist or have been met in that:
  - a. Not less than one-sixth of the perimeter of the Property is contiguous with the Town of Severance or will be contiguous with the Town of Severance within such time as required by C.R.S. § 31-12-104;
  - b. A community of interest exists between the Property and the Town of Severance;
  - c. No land within Property which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels or real estate, has been divided into separate parts or parcel without the written consent of the landowner or landowners thereof, except and unless such tracts or parcels are separated by a dedicated street, road or other public way;
  - d. No land within the boundary of the Property which is held in identical ownership, comprising twenty (20) acres or more and which, together with the buildings and improvements situated thereon, has an assessed value in excess of Two Hundred Thousand Dollars (\$200,000.00) for ad valorem tax purposes for the year preceding the annexation, has been included within the territory proposed to be annexed without the written consent of the landowner or landowners;
  - e. The Property is not part of any incorporated city, city and county, or town; nor have any annexation or incorporation proceedings been commenced in an area that is part of all of the Property; nor has any election for annexation of the Property or substantially the same territory to the Town been held within the twelve (12) months immediately preceding the filing of this Petition;

- f. The annexation of the Property will not result in the detachment of area from any school district or attachment of same to another school district;
  - g. The annexation of the Property will not have the effect of extending the boundary of the Town of Severance more than three miles in any direction from any point of the boundary of the Town of Severance in any one year;
  - h. The proposed annexation will not result in the denial of reasonable access to any landowner, easement holder, or owner of a franchise adjoining a platted street or alley which has been annexed by the Town but is not bounded on both sides by the Town; and
  - i. In establishing the boundary of the territory proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the territory to be annexed.
4. Petitioner is the owner of one hundred percent (100%) of the Property, and Petitioner hereby consents to the establishment of the boundaries of the territory to be annexed as shown in the annexation maps submitted herewith.
5. The affidavit of the circulator of this Petition certifying that the signature on this Petition is the signature of each person whose name it purports to be certifying -the accuracy of the date of such signatures is attached hereto as Exhibit B and is incorporated herein by this reference.
6. Petitioner and the Town specifically acknowledge an Annexation Agreement has been or will be executed by Petitioner and the Town relating to this annexation shortly after the execution of this Petition.
7. Upon the annexation of the Property becoming effective, and subject to the conditions to be set forth in the Annexation Agreement, the Property shall become subject to all ordinances, resolutions, rules and regulations of the Town, except for general property taxes of the Town, which shall become effective on January 1 of the next succeeding year following adoption of the annexation ordinance.
8. Except for the terms and conditions of this Petition and of the Annexation Agreement, which terms and conditions Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of Section 31- 12-107 (l)(g) of the Annexation Act, Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the Town.
9. Accompanying this petition are four copies of an annexation map containing the following information:

- a. A written legal description of the boundaries of the area proposed to be annexed;
  - b. A map showing the boundary of the area proposed to be annexed, said map prepared by and containing the seal of a registered engineer;
  - c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
  - d. Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the Town of Severance and the contiguous boundary of any other municipality abutting the area proposed to be annexed, and a showing of the dimensions of such contiguous boundaries.
10. Petitioner hereby reserves the sole, exclusive and unilateral right to withdraw this Petition by so notifying the Town Clerk in writing at any time prior to: (i) the effective date of the ordinances annexing and zoning the Property; or (ii) the satisfaction of the conditions precedent to the annexation effectiveness to be set forth in the Annexation Agreement.

THEREFORE, the undersigned respectfully petition the Town Council of the Town of Severance to annex the territory described and referenced in Bower North Annexation Map to the Town of Severance in accordance with and pursuant to the Annexation Act.

Respectfully submitted this \_\_\_\_ day of \_\_\_\_\_, 2024. By this acknowledgment, the undersigned hereby certify that the above information is complete and true.

*[Remainder of page intentionally left blank-Signature page to follow]*

Signatures of Petitioners

*[Handwritten signature]*

PLATTE LAND AND WATER LLC

STATE OF Illinois)

) ss.

COUNTY OF Lake)

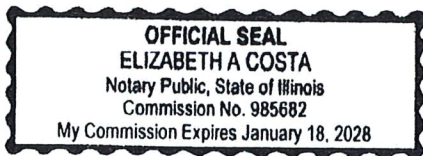
The foregoing instrument was acknowledged before me this 30 day of July, 2024, by NAME(s).

Witness my hand and official seal.

*Elizabeth A. Costa*  
(Notary Public Official Signature)

Elizabeth A. Costa  
(Printed Name of Notary)

01-18-2028  
(Commission Expiration)





ANNEXATION LEGAL

**PROPERTY DESCRIPTION**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 619.87 FEET, TO A POINT ON THE EXISTING BOUNDARY OF THE TOWN OF SEVERANCE, AS ANNEXED IN HUNTERS CROSSING ANNEXATION AND ZONING MAP NUMBER 1 RECORDED UNDER RECEPTION NO. 4431194;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, N86°11'12"E A DISTANCE OF 1970.99 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN PLAT OF THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION AND THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'51"E A DISTANCE OF 2606.37 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 2570.32 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 6,516,210 SQUARE FEET OR 149.5916 ACRES.

EXHIBIT ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

**PROPERTY DESCRIPTION STATEMENT**

I, JARROD ADAMS, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

JARROD ADAMS, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 38252  
FOR AND ON BEHALF OF JR ENGINEERING, LLC



Affidavit of Circulator

The undersigned, being of lawful age, who being first duly sworn upon oath deposes and says:

That (s)he was the circulator of the foregoing Petition for Annexation of lands to the Town of Severance, Colorado, consisting of 5 pages, excluding the page(s) of this affidavit, and that the signatures of the petitioners thereon were witnessed by the circulator and are the true and original signatures of the persons whose names they purport to be, and that the dates of such signatures are correct.

*[Handwritten Signature]*

Circulator: \_\_\_\_\_

STATE OF Illinois )  
 ) SS.  
COUNTY OF Lake )

The forgoing AFFIDAVIT OF CIRCULATOR was subscribed and sworn to before me this 30 day of, July 2024, by Timothy Walsh.

Witness my hand and official seal:

*Elizabeth A. Costa*

Notary Public Commission

Expires: 01-18-2028



**TOWN OF SEVERANCE  
RESOLUTION NO. 2024-33R**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SEVERANCE,  
COLORADO, FINDING SUBSTANTIAL COMPLIANCE OF AN ANNEXATION  
PETITION, INITIATING ANNEXATION PROCEEDINGS, AND SETTING A  
PUBLIC HEARING ON THE PETITION IN ACCORDANCE WITH THE  
MUNICIPAL ANNEXATION ACT OF 1965 FOR PROPERTY KNOWN AS THE  
BOWER NORTH ANNEXATION**

**WHEREAS**, a written Petition for Annexation to the Town of Severance, Colorado (“Petition”), has been filed with the Town Clerk requesting the annexation of a certain unincorporated tract of land comprised of approximately 149.59 acres located in the County of Weld, State of Colorado (the “Property”), and being more particularly described on Exhibit A, attached hereto and incorporated herein by this reference; and

**WHEREAS**, the Petition has been referred to the Town Council for the Town of Severance, for a determination of substantial compliance with the requirements of the Colorado Municipal Annexation Act of 1965, Section 31-12-107(1), C.R.S.; and

**WHEREAS**, the Town Council has been advised by the staff, and has taken official notice of all maps, records, and other information and materials on file with the Town of Severance, Colorado, regarding the Petition; and

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE  
TOWN OF SEVERANCE COLORADO:**

Section 1. The Town Council hereby finds and determines:

- a. That a Petition for Annexation to the Town of Severance, Colorado, has been filed with the Town Clerk by Platte Land and Water LLC (“Petitioner”);
- b. That Petitioner is the owner of one hundred percent (100%) of the Property proposed to be annexed, described on Exhibit A, exclusive of public streets and alleys; and
- c. That said Petition substantially complies with Section 31-12-107(1), C.R.S.

Section 2. The Town Council of the Town of Severance, Colorado, will hold a hearing upon the Petition for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of Sections 31-12-104 and 31-12-105, C.R.S., and the Severance Municipal Code, all as amended, and is considered eligible for annexation. The hearing will be held on **October 8, 2024**, commencing at the hour of 6:00 P.M., or as soon as possible thereafter, at Severance Town Hall in the Town Council Chambers, 3 S. Timber Ridge Parkway, Severance, Colorado 80550. Any person may appear at such hearing and present evidence upon any matter to be determined by the Town Council of the Town of Severance, Colorado.

Section 3. The Town Clerk shall publish a Notice of Public Hearing, in substantially the form attached as Exhibit B, once a week for four successive weeks in a newspaper of general circulation in the area proposed to be annexed, with the first publication of such notice to be at least thirty days prior to the date of the hearing. The Town Clerk shall further provide notice to the Clerk of the Board of County Commissioners of Weld County, the Weld County Attorney, and to any special district or school district having territory within the area proposed to be annexed, in the manner and within the time provided in Section 31-12-108(2), C.R.S.

RESOLVED AND APPROVED this 27<sup>th</sup> day of August, 2024.

TOWN OF SEVERANCE, COLORADO



Matthew Fries  
Matthew Fries, Mayor

ATTEST:

Leah Vanarsdall  
Leah Vanarsdall, Town Clerk

APPROVED AS TO FORM:

DocuSigned by:  
Hayashi & Macsalka  
80660CCFFD0840A  
Hayashi & Macsalka, LLC, Town Attorney

**Exhibit A**

**BOWER NORTH ANNEXATION  
LEGAL DESCRIPTION**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 619.87 FEET, TO A POINT ON THE EXISTING BOUNDARY OF THE TOWN OF SEVERANCE, AS ANNEXED IN HUNTERS CROSSING ANNEXATION AND ZONING MAP NUMBER 1 RECORDED UNDER RECEPTION NO. 4431194;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, N86°11'12"E A DISTANCE OF 1970.99 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN PLAT OF THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION AND THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'51"E A DISTANCE OF 2606.37 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 2570.32 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 6,516,210 SQUARE FEET OR 149.5916 ACRES.

**EXHIBIT B**

**TOWN OF SEVERANCE, COLORADO  
NOTICE OF PUBLIC HEARING**

TO ALL PERSONS INTERESTED:

PLEASE TAKE NOTICE that the Town Council of the Town of Severance has adopted Resolution No. 2024-33R initiating annexation proceedings for the Bower North Annexation, consisting of approximately 149.59 acres and generally located northwest of the intersection of Teller Street (WCR 21) and Tinsman Avenue, in the East 1/2 of Section 3, Township 6 North, Range 67 West of the 6th Principal Meridian; County of Weld, State of Colorado, said Annexation being more particularly described in Resolution No. 2024-33R.

That, on October 8, 2024, at the hour of 6:00 P.M., or as soon thereafter as the matter may be called, at the Council Chambers in Severance Town Hall, 3 S. Timber Ridge Parkway, Severance, Colorado 80550, the Severance Town Council will hold a Public Hearing upon the annexation petition for the purpose of finding and determining whether the real property for which a petition for annexation to the Town of Severance has been filed with the Town, to be known as the Bower North Annexation, meets the applicable requirements of Sections 31-12-104 and 31-12-105 of the statutes of the State of Colorado, and the Severance Municipal Code, and is eligible for annexation to the Town.

The Public Hearing shall be conducted in-person. All submitted 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 or by calling 970-686-1218 no later than three days prior to the meeting. Submittal of any materials to the Town Council for review are due no later than five (5) days before the meeting and written comments must be submitted no later than 5:00 P.M. on the day of the meeting. All submittals of materials and written comments must be sent to [planning@townofseverance.org](mailto:planning@townofseverance.org).

Any person may appear at the Public Hearing and be heard regarding the matters under consideration. The Petition for Annexation is on file with the Town of Severance. For questions or comments contact: Shani Porter, Director of Planning, 970-686-1218, [planning@townofseverance.org](mailto:planning@townofseverance.org).

TOWN OF SEVERANCE, COLORADO  
Leah Vanarsdall  
Town Clerk

Please publish in the Greeley Tribune once a week for four consecutive weeks on:  
September 3, 2024; September 10, 2024; September 17, 2024; and September 24, 2024.

Please send the affidavit of publication and billing to:

Town Clerk  
Town of Severance  
3 S. Timber Ridge Parkway  
Severance, CO 80550





June 21, 2024

Town of Severance, Colorado  
3 South Timber Ridge Parkway  
Severance, Colorado 80546

**RE: Bower North – Annexation Impact Report**

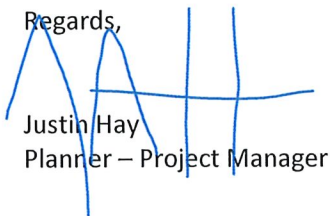
Dear Town Staff,

The Bower North Team is formally requesting the annexation and zoning of our project known as ‘Bower North’. Our team has a mission to provide a well-designed, cohesive community with quality homes, connected open space, and streetscapes connecting adjacent communities and the Town. Bower North is comprised of approximately 153 acres and is planned to have a diverse mix of residential homes consisting of single family detached and attached products on both rural and suburban zoned planning areas.

The following report analyzes the proposed developments’ impact with respect to the Town of Severance and Weld County’s services and other factors.

We look forward to the Town’s feedback on our project and are enthusiastic about the opportunity to be a part of Severance’s vibrant, growing community.

Regards,



Justin Hay  
Planner – Project Manager

# Annexation Impact Report

For

## Bower North

Severance, Colorado

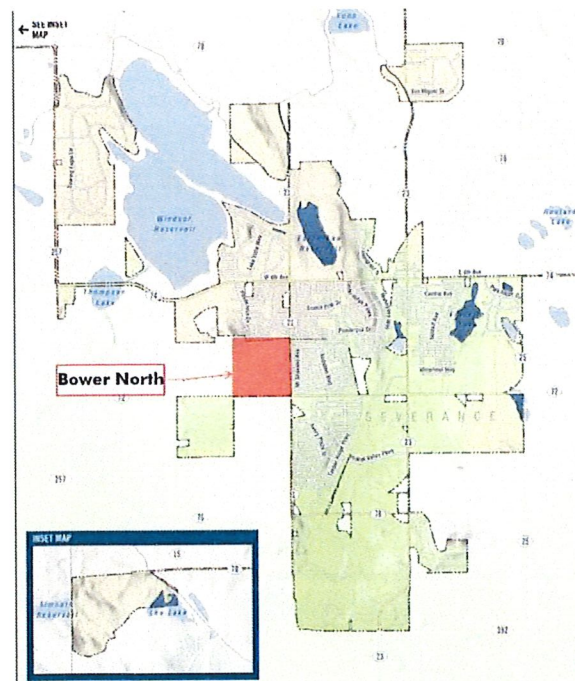
June 21, 2024

### Project Location

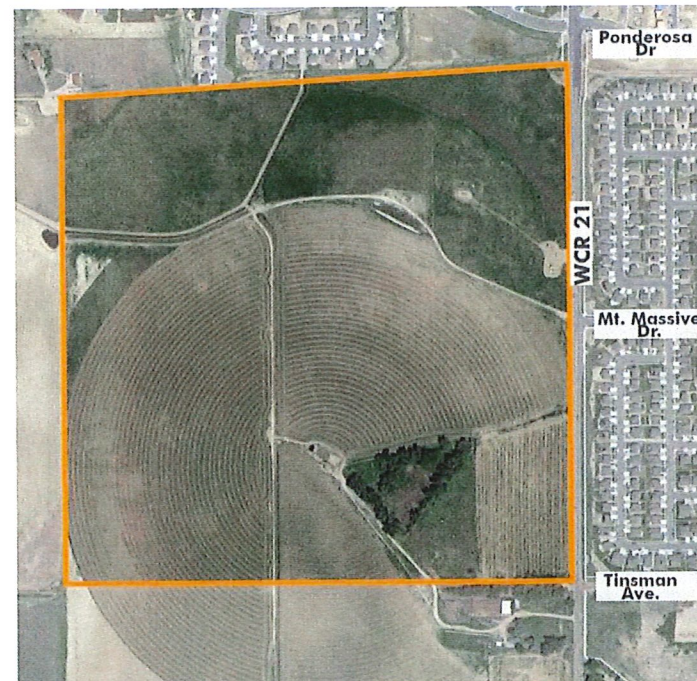
Bower North is approximately 153 acres located in Weld County, Colorado. The property's borders included:

- North: 'Severance Reserve', an existing single family residential community.
- East: Weld County Road 21 and 'The Overlook', an existing single family residential community.
- South: Undeveloped farmland
- West: Undeveloped farmland

The area to be developed is located within the Town of Severance Sub-Urban Perimeter zone as designated by the Comprehensive Plan.



> Context Exhibit



> Site Exhibit

**Proposed Land Uses**

Bower North has a diverse mix of residential homes consisting of single family detached and attached products on both rural and suburban zoned planning areas. The concept plan complies with the current, Town comprehensive plan. The community will be designed with an organization of streetscapes, detached walks, parks, open space, and connected trail systems. Our project will continue Severance’s connection to existing and future neighborhoods and align with the Town’s future growth strategies.

The theme of the development is to fit within Severance’s design and community character, building on the contemporary farm, craftsman, and agrarian design vernacular of the region. The neighborhood planning areas will be comprised of a diverse mix of lot sizes and residential product types.

The following table outlines the site data and proposed density for Bower North:

Planning Area (PA)	Comp. Plan Zoning	PA Gross Acres	Square Feet	Lot Qty	Min. Lot Size
1	Rural	33.1	1,443,754	20	1.25 Acre
2	Rural	30.1	1,310,750	16	1.25 Acre
3	Suburban: SFD	30.9	1,344,295	85	6,000 SF
4	Suburban: SFA	10.4	452,352	127	4,000 / 1,400 SF
5	Suburban: SFA	9.7	421,819	68	4,000 / 1,400 SF
6	Suburban: SFD	30.1	1,312,376	126	6,000 SF
<b>Totals</b>		<b>144.3</b>	<b>6,285,346</b>	<b>442</b>	

**Annexation Agreement**

Per Colorado Revised Statutes 2013 134 Title 134, an agreement will be drafted between the property owner and municipality outlining the responsibilities of each party.

**Domestic Water and Sanitary Sewer**

The Site is located within the North Weld County Water District (NWCWD) which will provide domestic water and sanitary sewer treatment for the project.

• **Water**

There are existing NWCWD domestic waterlines adjacent to the Site, and it is anticipated that connections to the mains will be made to service the development in the future. Currently NWCWD has a moratorium on providing additional water taps for single-family residential units. This is due to a lack of infrastructure within the area for NWCWD to provide the quantity of water within their system to serve additional units in the Town of Severance and surrounding area.

Currently NWCWD is working on designs to increase their capacity and provide domestic water service to the Town of Severance. Timing for the completion of this project is currently unknown, and it may be a few years until domestic water taps are available in the Town.

The western half of the site is zoned for larger lots, and individual domestic wells may be utilized to service these lots. The option for a small domestic water system may be considered to serve these lots as well.

- **Sewer**

Existing sanitary sewer main lines are located in the vicinity of the Site, and it is anticipated that sanitary sewer flows will be conveyed to the northeast where they will tie into the existing sewer system. Based upon maps and information provided by NWCWD and the Town, the sanitary sewer mains have the capacity to service the development of the Site. However, the Town does not currently have a Wastewater Treatment Plant (WWTP) and flows are routed to the Windsor Treatment Facility which is currently at capacity. Currently Windsor is working on design to expand their WWTP. The Town of Severance is working directly with Windsor to acquire additional capacity within the WWTP to serve upcoming developments.

The western half of the site is zoned for larger lots, and based on the size of these lots that are developed individual septic systems may be utilized to service these lots.

### Traffic Impacts

The proposed densities of the development have been accounted for in the Town's Comprehensive Plan as well as Master Transportation Planning. A Traffic Impact Study (TIS) has been prepared to analyze the traffic generated by the development and the impacts on the surrounding roadways. The Site is not anticipated to have a negative impact the Town's existing roadway system. Auxiliary and turn lanes with be constructed for the access points in and out of the Site along the main arterial roadways adjacent to the Site.

### Municipal Services

The area to be annexed as described by the attached legal description will receive the following municipal services from the stated agencies:

- **Police:** Town of Severance Police. The Bower North neighborhood will not require additional, special security measures and can be patrolled as part of the Severance Police Department.
- **Fire & Emergency Services:** Windsor Severance Fire Rescue. Roadways and access will comply with Town standards. Construction methods and fire prevention will adhere to building codes.
- **Schools:** Weld County RE-4 District.
- **Library District:** Clearview Library District
- **Electric/Communication Service:** United Power

### **Economic Impact**

A Metropolitan District is anticipated to be established as the authority to finance all public improvements within and adjacent to the property. The district will convey public infrastructure to the Town and will establish the means for ongoing maintenance. The district will also provide the administration and control services for the community such as establishing and enforcing the architectural standards and lot landscaping requirements. The details of the district's organization, obligations and financial structure will be provided in a formal Service Plan conforming to all legal standards.

The community is designed to attract a diverse base of residents that will value the community and appreciate the Town of Severance. Residents will be able to visit the town and surrounding communities through connected open spaces and streetscapes, adding to the economic growth and local spending within the area. Existing commercial and retail locations will be further supported by these community residents, and increased demand for services will attract additional businesses adding to the Town's tax base.

### **School District Impact**

Bower North property is within the Weld County School District RE-4. The Bower team has initiated contact with the district and will work with the District and Town to determine student generation by new housing.

### **Environmental Impacts**

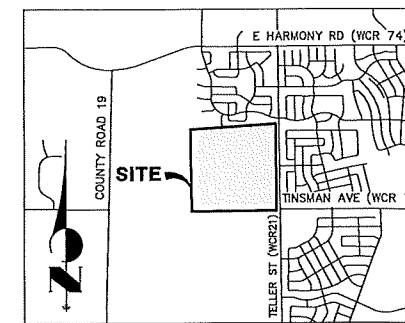
Existing land use has been agriculture and farmland. There is an irrigation ditch and small irrigation pond in the central area of the property. Detention of storm water runoff will be accommodated in ponds incorporated into public open spaces and additional storage above the operational level of the reservoir. The stormwater design will be accomplished by identifying specific grading and drainage patterns relative to the site and applying standard practices for this region for conveyance and detention. The stormwater design will be based on the subdivision layout and existing topography. The internal street system will be used to convey stormwater runoff to the detention system within the open spaces. The runoff will be mitigated by the detention system and released at a historic rate.

The drainage design and a final report will be completed and provided for review and approval. It is not anticipated that existing systems downstream of the subdivision will require modification to accommodate the development since historic rates will be maintained.

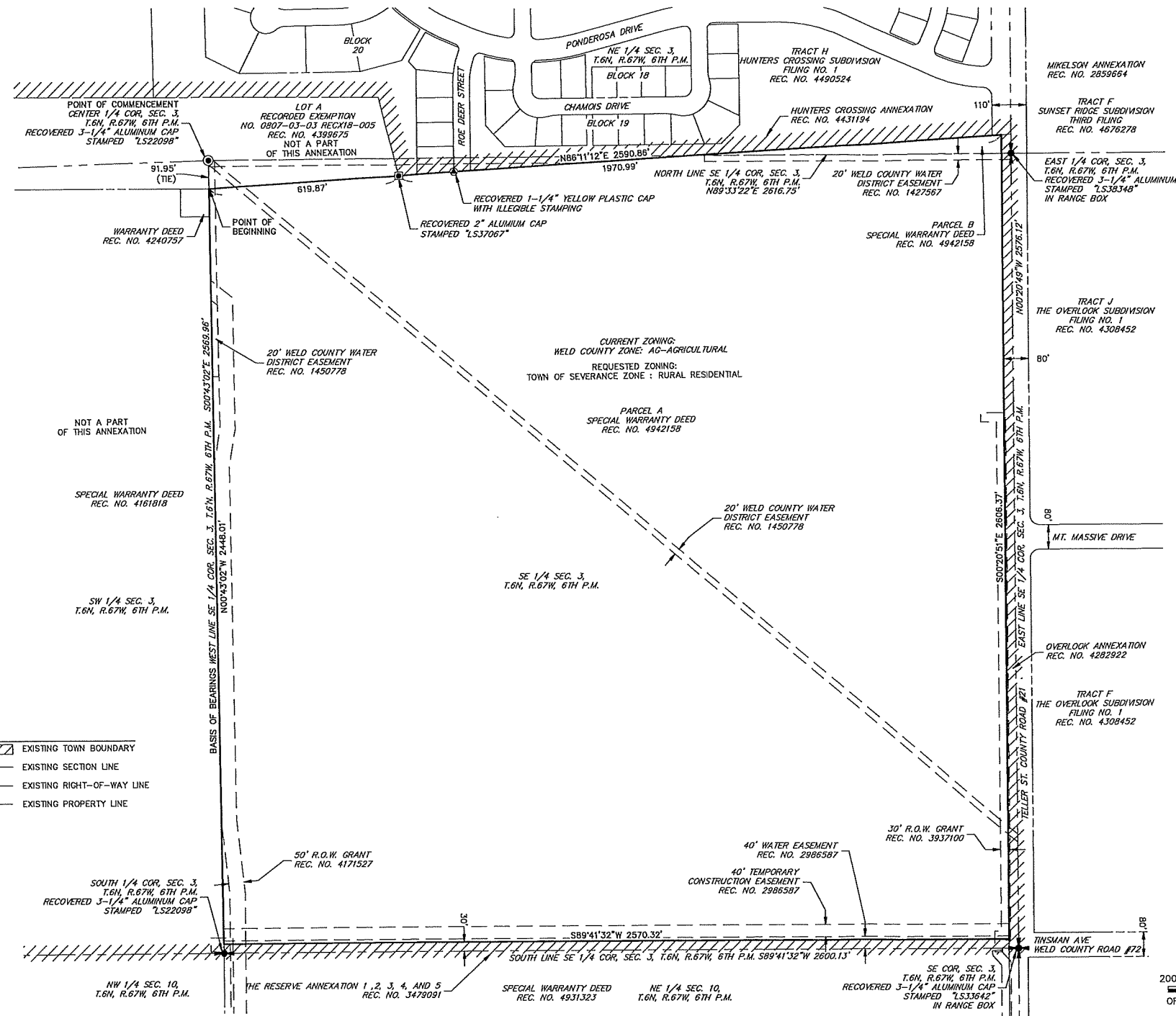
# BOWER NORTH ANNEXATION

TO THE TOWN OF SEVERANCE, COLORADO

LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH P.M.  
COUNTY OF WELD, STATE OF COLORADO



VICINITY MAP  
SCALE: 1" = 2000'



### OWNERS APPROVAL AND DEDICATION:

THE UNDERSIGNED, BEING SOLE OWNERS OF THE LAND DESCRIBED HEREIN, HAVE CAUSED SAID LAND TO BE LAID OUT AND ANNEXED UNDER THE NAME OF BOWER NORTH ANNEXATION.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

OWNER: PLATTE LAND & WATER, LLC, A DELAWARE LIMITED LIABILITY COMPANY

BY: \_\_\_\_\_ AS \_\_\_\_\_ OF PLATTE LAND & WATER, LLC

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

### DESCRIPTION:

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 619.87 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN HUNTERS CROSSING ANNEXATION AND ZONING MAP NUMBER 1 RECORDED UNDER RECEPTION NO. 4431194;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, N86°11'12"E A DISTANCE OF 1970.99 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN PLAT OF THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION AND THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'51"E A DISTANCE OF 2608.37 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 2570.32 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 6,516,210 SQUARE FEET OR 149.5916 ACRES.

### GENERAL NOTES:

THIS SITE IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN. FLOODPLAIN INFORMATION WAS OBTAINED FROM F.E.M.A. FLOODPLAIN AS SHOWN ON THE FLOOD INSURANCE RATE MAP PANEL 08123C1200E, EFFECTIVE DATE JANUARY 20, 2016

### SURVEYORS CERTIFICATE:

I, JARROD ADAMS, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE MAP HEREIN IS A CORRECT DELINEATION OF THE DESCRIBED PARCEL OF LAND AND THAT IT IS CONTIGUOUS TO THE TOWN OF SEVERANCE, COLORADO AND MEETS THE REQUIREMENTS SET FORTH IN COLORADO REVISED STATUTES 31-12-104-(1) (c) THAT ONE-SIXTH (1/6) OR MORE OF THE PERIMETER TO BE ANNEXED IS CONTIGUOUS WITH THE ANNEXING MUNICIPALITY.

JARROD ADAMS, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 38252  
FOR AND ON BEHALF OF JR ENGINEERING, LLC  
7200 S. ALTON WAY SUITE C400  
CENTENNIAL CO, 80112



200 100 0 200  
ORIGINAL SCALE: 1" = 200'

### LEGEND

- EXISTING TOWN BOUNDARY
- EXISTING SECTION LINE
- EXISTING RIGHT-OF-WAY LINE
- EXISTING PROPERTY LINE

### TOWN COUNCIL CERTIFICATE:

THIS IS TO CERTIFY THAT THE BOWER NORTH ANNEXATION WAS APPROVED ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_ BY ORDINANCE NO. \_\_\_\_ PASSED AND ADOPTED AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF SEVERANCE, HELD ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_ AND MAY BE FILED WITH THE CLERK AND RECORDER OF WELD COUNTY. THE MAYOR OF THE TOWN OF SEVERANCE ON BEHALF OF THE TOWN OF SEVERANCE HEREBY ACKNOWLEDGES SAID ANNEXATION UPON WHICH THIS CERTIFICATE IS ENDORSED FOR ALL PURPOSES INDICATED THEREON.

MAYOR \_\_\_\_\_ TOWN CLERK \_\_\_\_\_

### TOWN ENGINEER'S REVIEW:

REVIEWED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

TOWN ENGINEER \_\_\_\_\_

### TOWN PLANNER'S REVIEW:

REVIEWED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

TOWN PLANNER \_\_\_\_\_

### PLANNING COMMISSION REVIEW:

RECOMMENDED FOR APPROVAL THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_

CHAIRMAN \_\_\_\_\_  
SEVERANCE PLANNING COMMISSION

### CONTIGUITY STATEMENT:

- TOTAL PERIMETER OF AREA CONSIDERED FOR ANNEXATION = 10,215.56 FEET.
  - ONE-SIXTH OF TOTAL PERIMETER OF AREA = 1,702.59 FEET.
  - PERIMETER OF THE AREA CONTIGUOUS WITH EXISTING CITY LIMITS = 7,147.68 FEET.
- THE TOTAL CONTIGUOUS PERIMETER IS 69.97% WHICH EXCEEDS THE ONE-SIXTH (1/6) AREA REQUIRED.

2	REVISED PER CITY COMMENTS	8/13/2024
1	UPDATED DRAWING PER CHECKLIST	5/17/2024

ANNEXATION  
BOWER NORTH  
JOB NO. 39829.00  
MARCH 29, 2024  
SHEET 1 OF 1





**SITE DATA** 1.13.24

Planning Area (PA)	Comp. Plan Zoning	PA Gross Acres	Square Feet	Open Space (Acres)	Open Space (SF)	Lot Qty	Min. Lot Size
1	Rural	31.6	1,377,893	12.3	537,852	16	1.25 Acre
2	Rural	30.2	1,313,755	12.1	525,106	15	1.25 Acre
3	Suburban: SFD	34.7	1,512,586	6.0	260,066	145	6,000 SF
4	Suburban: SFA	7.2	314,368	1.3	58,801	107	4,000 / 1,400 SF
5	Suburban: SFA	9.9	432,551	1.3	54,763	66	4,000 / 1,400 SF
6	Suburban: SFD	31.5	1,371,987	4.8	209,012	130	6,000 SF
7	ROW: CR 72 & Teller	4.4	193,070	-	-	-	-
<b>TOTAL:</b>		<b>149.6</b>	<b>6,516,210</b>	<b>37.8</b>	<b>1,645,600</b>	<b>479</b>	

NOTE: EXISTING OIL / GAS FACILITIES, AND WELLS TO BE PLUGGED, ABANDONED AND REMOVED PRIOR TO FINAL PLAT.

Park & Open Space Data			
Rural Lot Open Space: 1/3	13.9	605,429	
Detention	5.4	235,725	
Parks / O.S.	18.5	804,446	
<b>TOTAL:</b>	<b>37.8</b>	<b>1,645,600</b>	<b>25%</b> : Of Total Acreage

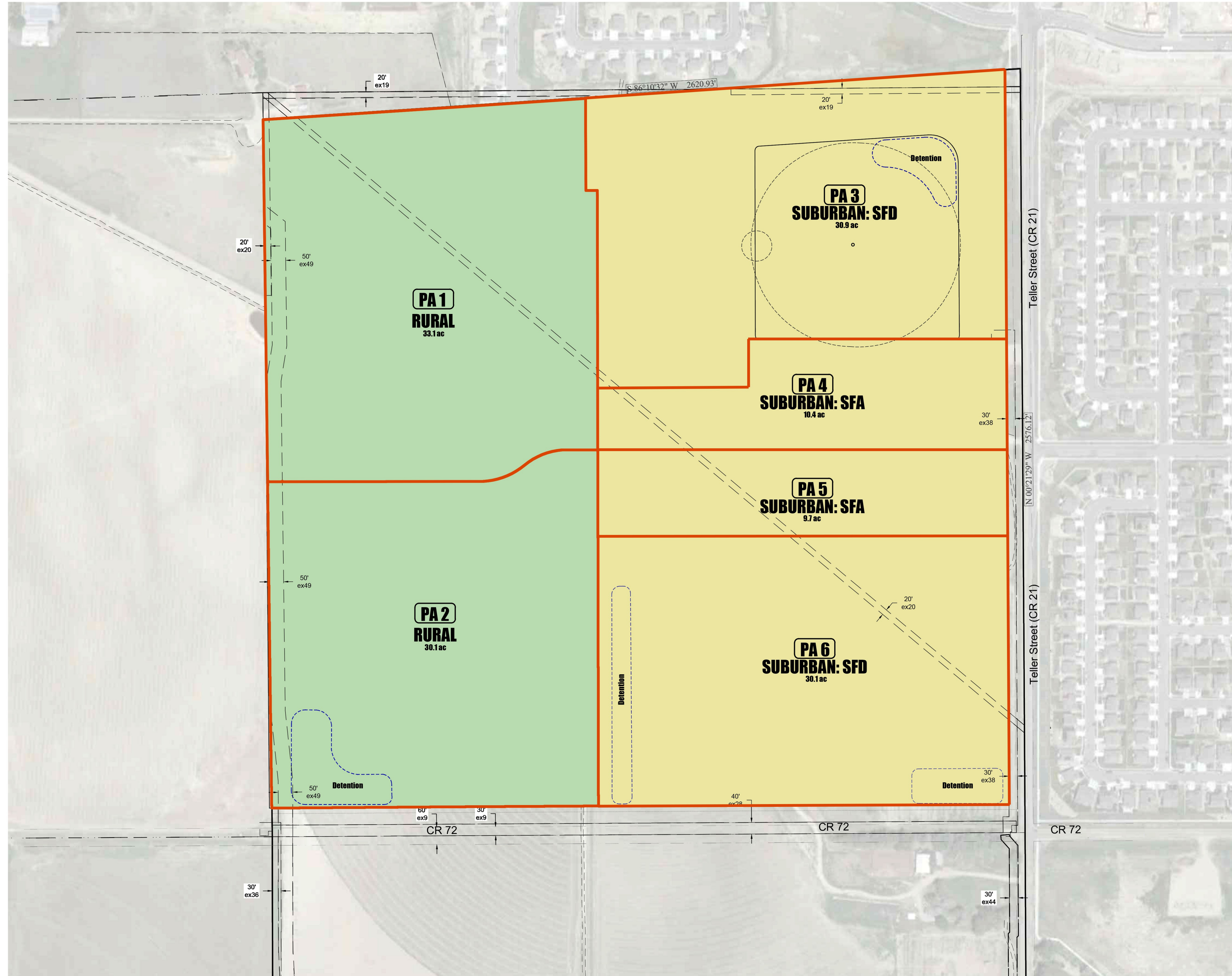
**BOWER NORTH: Concept Plan**

This plan is conceptual and will be finalized at the time of preliminary and final plat.

# BOWER NORTH ZONING PLAN

TOWN OF SEVERANCE, COLORADO

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH P.M.  
COUNTY OF WELD, STATE OF COLORADO

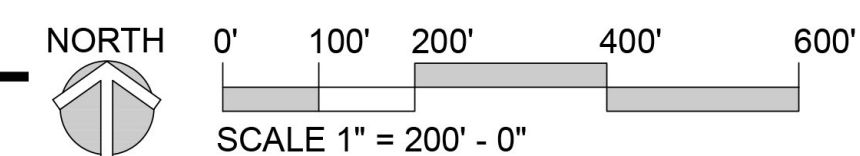


## ZONING LEGEND

PLANNING AREA (PA)	ZONING	USE	ACRES*
PA 1	RURAL	SFD	+/- 33.1
PA 2	RURAL	SFD	+/- 30.1
PA 3	SUBURBAN	SFD	+/- 30.9
PA 4	SUBURBAN	SFA	+/- 10.4
PA 5	SUBURBAN	SFA	+/- 9.7
PA 6	SUBURBAN	SFD	+/- 30.1
TOTAL:			+/- 144.1

\* Acreages vary and exclude some right-of-way areas.

ZONING PLAN



DATE	DESCRIPTION
06-21-2024	1ST SUBMITTAL

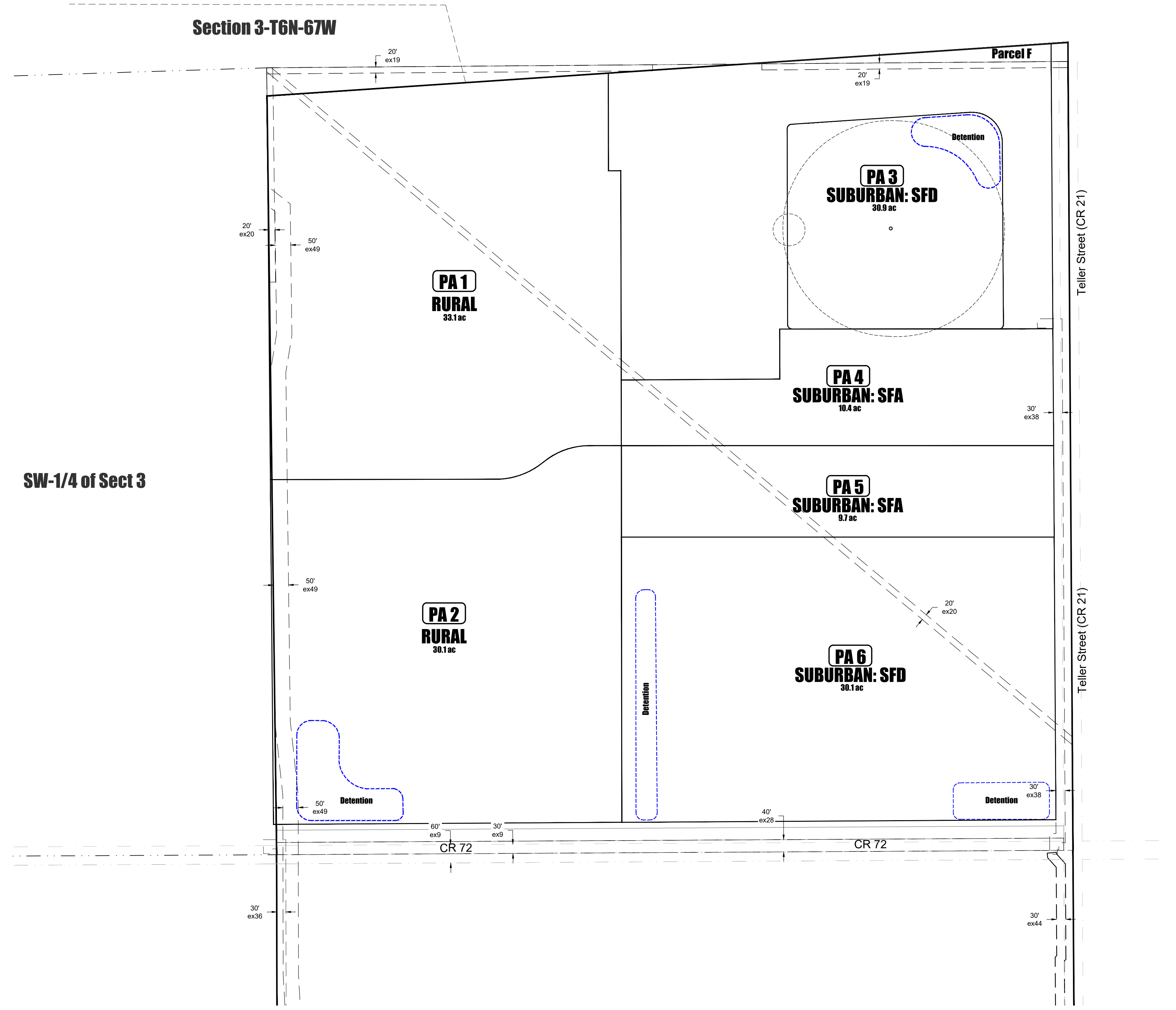


2639 SOUTH CURTICE STREET  
LITTLETON, COLORADO 80120  
303.883.2735  
STACKLOT.COM

# BOWER NORTH ZONING PLAN

TOWN OF SEVERANCE, COLORADO

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE SIXTH P.M.  
COUNTY OF WELD, STATE OF COLORADO

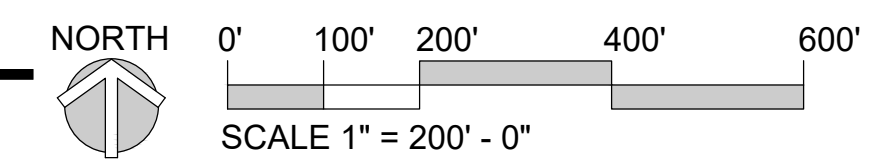


## ZONING LEGEND

PLANNING AREA (PA)	ZONING	USE	ACRES*
PA 1	RURAL	SFD	+/- 33.1
PA 2	RURAL	SFD	+/- 30.1
PA 3	SUBURBAN	SFD	+/- 30.9
PA 4	SUBURBAN	SFA	+/- 10.4
PA 5	SUBURBAN	SFA	+/- 9.7
PA 6	SUBURBAN	SFD	+/- 30.1
TOTAL:			+/- 144.1

\* Acreages vary and exclude some right-of-way areas.

ZONING PLAN



DATE	DESCRIPTION
06-21-2024	1ST SUBMITTAL

**STACKlot**

[urban design] [planning] [landscape architecture]

3639 SOUTH CURTICE STREET  
LITTLETON, COLORADO 80120  
303.983.2735  
STACKLOT.COM

**PROPERTY DESCRIPTION**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 1116.32 FEET;

THENCE DEPARTING SAID NORTHERLY LINE, S00°09'12"E A DISTANCE OF 2516.22, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY, S89°41'32"W A DISTANCE OF 1089.96 FEET, TO A POINT ON THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3;

THENCE ON SAID WEST LINE, N00°43'02"W A DISTANCE OF 2448.01 FEET, TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 2,735,665 SQUARE FEET OR 62.80 ACRES.

**PROPERTY DESCRIPTION**

A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN; COUNTY OF WELD, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN BEING MONUMENTED AT THE CENTER QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098", AND AT THE SOUTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS22098" ASSUMED TO BEAR S00°43'02"E A DISTANCE OF 2569.96 FEET.

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 3,

THENCE ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3, S00°43'02"E A DISTANCE OF 91.95 FEET TO THE NORTHWEST CORNER OF PARCEL A RECORDED UNDER RECEPTION NO. 4942158 IN THE RECORDS OF THE WELD COUNTY CLERK AND RECORDER;

THENCE ON THE NORTHERLY OF SAID PROPERTY, N86°11'12"E A DISTANCE OF 1116.32 FEET, TO THE POINT OF BEGINNING;

THENCE CONTINUING ON SAID NORTHERLY LINE, N86°11'12"E A DISTANCE OF 1474.57 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE MIKELSON ANNEXATION RECORDED UNDER RECEPTION NO. 2859664;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE AS ANNEXED IN SAID PLAT OF THE MIKELSON ANNEXATION, S00°20'56"E A DISTANCE OF 60.32 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3;

THE DEPARTING SAID NORTH LINE, ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE AS ANNEXED IN THE OVERLOOK ANNEXATION AND ZONING MAP RECORDED UNDER RECEPTION NO. 4282922, S00°20'49"E A DISTANCE OF 2546.05 FEET, TO A POINT ON THE EXISTING BOUNDARY LINE OF THE TOWN OF SEVERANCE, AS ANNEXED IN THE RESERVE ANNEXATION NO. 1, 2, 3, 4, AND 5 RECORDED UNDER RECEPTION NO. 3479091;

THENCE ON SAID EXISTING TOWN BOUNDARY LINE, S89°41'32"W A DISTANCE OF 1480.37 FEET;

THENCE DEPARTING SAID EXISTING TOWN BOUNDARY, N00°09'12"W A DISTANCE OF 2516.22 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 3,780,580 SQUARE FEET OR 86.79 ACRES.



## AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
<b>PUBLIC HEARING</b> Zoning: Bower North	Shani Porter, Planning Director	Shani Porter, Planning Director
<b>ACTION REQUESTED</b>		
<p>The Planning Department requests that the Severance Planning Commission review and discuss the Bower North Zoning of Rural Residential and Suburban Perimeter and forward a recommendation to the Town Council. Actions that may be taken:</p> <ol style="list-style-type: none"> <li>1. Forward a recommendation of approval to the Town Council for Bower North Zoning.</li> <li>2. Take No Action</li> </ol>	<b><u>Zoning Action Requested</u></b>	
<b>BRIEF SUMMARY</b>		
<p>Platte Land and Water LLC (owners) are petitioning the Town of Severance to annex approximately 149.59 acres west of and adjacent to Teller Street (WCR 21), south of Hunters Crossing neighborhood and north of CR 72. The application is for the western portion of the property, approximately 61.8 acres, to be zoned Rural Residential and the eastern portion of the property to be zoned Suburban Perimeter, which includes approximately 83.2 acres. Approximately 4 acres will be dedicated for future right-of-way. A concept plan has been submitted with this annexation and will be viewed at this meeting.</p> <p><b><u>***Please see Attached Files for Bower North Annexation***</u></b></p>		
<b>PUBLIC SUPPORT/CONCERN</b>		
None at this time		
<b>ANALYSIS AND RECOMMENDATION</b>		
<p>In accordance with Section 16.19.60 (b) of the Municipal Code, no application for zoning or rezoning of the property shall be approved unless it is demonstrated:</p> <ol style="list-style-type: none"> <li>1. The proposed zoning bears a reasonable relationship to the general welfare of the community; and</li> <li>2. At least one of the following additional factors exists:             <ol style="list-style-type: none"> <li>a. 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</li> <li>b. 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</li> <li>c. The property to be rezoned was previously zoned in error; or</li> <li>d. 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</li> <li>e. The proposed zoning serves a community need or amenity that was not considered at the time of the initial zoning of the property.</li> </ol> </li> </ol>		

The proposed zoning of Suburban Perimeter and Rural Residential is consistent with the Comprehensive Plan.

The Planning Department asks that the Planning Commission review and discuss the Bower North Zoning and forward a recommendation to the Town Council.

**MATERIALS SUBMITTED**

The following materials were submitted and included in this packet:  
None



# AGENDA ITEM SUMMARY

AGENDA ITEM	SUBMITTED BY	PRESENTED BY
<p><b>PUBLIC HEARING</b>  <b>Resolution No. PC 2025-09R:</b>            Text Amendments to the Land Use Code - Chapter 16 of the Severance Municipal Code for purposes of reorganizing Article 6-10 Architecture Standards, Wireless, Oil &amp; Gas, Solar and Flood</p>	<p>Shani Porter, Planning Director</p>	<p>Shani Porter, Planning Director            Josh Olhava, Town Planning Consultant</p>
<b>ACTION REQUESTED</b>		
<p>Planning Staff ask that the Planning Commission review, discuss, and take action on Resolution PC-2025-09R and forward a recommendation to the Town Council on amendments to the Land Use Code regarding amendments to Article 6 of Chapter 16 "Land Use Code". Actions that may be taken:</p> <ol style="list-style-type: none"> <li>1. Approve PC-2025-09R and forward a recommendation of approval to Town Council.</li> <li>2. Deny Resolution PC-2025-09R</li> <li>3. Take No Action.</li> </ol>	<p><b><u>Resolution</u></b>  <b><u>Action Requested</u></b>  <b><u>Attorney Approved</u></b></p>	
<b>BRIEF SUMMARY</b>		
<p>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</p>		
<b>PUBLIC SUPPORT/CONCERN</b>		
<p>None at this time.</p>		
<b>ANALYSIS AND RECOMMENDATION</b>		
<p>Town staff is asking for the Planning Commission to review, discuss, and approve PC-2025-09R for the proposed amendments to the Land Use Code</p>		
<b>MATERIALS SUBMITTED</b>		
<p>The following materials were submitted and included in this packet:</p> <ol style="list-style-type: none"> <li>1. PC-2025-09R PC Recommend Approval Art 6 LUC Text Amendments</li> <li>2. PC Public Notice Land Use Code 6-18-25</li> <li>3. Article 6 - Design Standards v2 redlines (06.2025)</li> <li>4. Article 6 - Design Standards v2 clean (06.2025)</li> <li>5. Article 7 - Wireless Telecommunications v2 redlines (06.2025)</li> <li>6. Article 7 - Wireless Telecommunications v2 clean (06.2025)</li> <li>7. Article 8 - O&amp;G Drilling Facilities v2 redlines (06.2025)</li> <li>8. Article 8 - O&amp;G Drilling Facilities v2 clean (06.2025)</li> <li>9. Article 9 - Solar Facilities Development v2 clean (06.2025)</li> <li>10. Article 9 - Solar Facilities Development v2 redlines (06.2025)</li> </ol>		

11. Article 10 - Flood Damage Prevention v2 clean (06.2025)
12. Article 10 - Flood Damage Prevention v2 redlines (06.2025)

**TOWN OF SEVERANCE PLANNING COMMISSION  
RESOLUTION NO. PC-2025-09R**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF SEVERANCE, COLORADO, MAKING A RECOMMENDATION TO THE TOWN COUNCIL TO APPROVE AMENDMENTS TO ARTICLE 6 OF CHAPTER 16, “LAND USE CODE,” OF THE SEVERANCE MUNICIPAL CODE REGARDING ARCHITECTURE STANDARDS, WIRELESS, OIL & GAS, SOLAR AND FLOOD**

**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 5 of the Land Use Code (the “Proposed Amendments”) regarding regulations for the Town’s Site Development Standards, 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 June 18th, 2025, the Planning Commission held a duly noticed public hearing<sup>1</sup> to consider the Proposed Amendments; 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 6 of Chapter 16, “Land Use Code,” of the Severance Municipal Code, regarding Architecture Standards, Wireless, Oil and Gas, Solar and Flood, 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

\_\_\_\_\_  
Kris Quandt, Chair

ATTEST:

---

Town Clerk

APPROVED AS TO FORM:

---

Town Attorney

**TOWN OF SEVERANCE, COLORADO  
NOTICE OF PUBLIC HEARINGS**

**Notice** is hereby given that the Planning Commission of the Town of Severance will hold a Public Hearing, on **Wednesday, June 18th, 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 the 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 Article 6 – 10 Architecture Standards, Wireless, Solar, Oil and Gas, Flood

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 should be submitted to the Town no later than 48 hours prior to the meeting. All written comments are to be sent to [planning@townofseverance.org](mailto: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](https://library.municode.com/co/severance/codes/municipal_code). For questions or comments contact:

Shani Porter  
970-686-1218  
[planning@townofseverance.org](mailto:planning@townofseverance.org)

TOWN OF SEVERANCE, COLORADO  
Sarah Jacobsen  
Town Clerk

## Article 6 – Design Standards

### **Sec. 16.6.10. Intent**

The intent of this Article is to establish the minimum design and development standards for all projects within the Town. These standards are intended to:

- Provide minimum standards for enhanced architectural character throughout the community;
- Promote a higher quality of community-wide design and development;
- Protect the character of new and existing neighborhoods;
- Create appropriate transitions and compatibility, where possible, of adjacent land uses;
- Prevent neighborhood blight, deterioration, and decay;
- Create diversity in design between different neighborhood areas and land uses;
- Promote the creation of distinct places within the community.

### **Sec. 16.6.20. Applicability**

- (a) The standards of this Article apply to all properties within the Town, where applicable.
- (b) The Town will, from time-to-time, conduct studies and analysis of neighborhood areas, corridors, and development nodes that identify additional development and design criteria. This criteria may be established by resolution of the Town Council. When established by resolution, such criteria are hereby incorporated by reference into this Article, and all projects within these areas must comply with the applicable design criteria.

## **Division 1 – Multi-Family Residential Use Design and Development Standards (Chapter 16, Article 18)**

### **Sec. 16.6.100. Intent (Sec. 16.18.10)**

- (a) *Purpose.* The intent of this Article-section is to apply enhanced design criteria and guidelines to all uses within the Town classified as “multi-family dwellings” under this Code.
- (b) *Provisions.* The provisions of this article-section are in addition to the requirements of the underlying zone district and supersede the zone district requirements in the event of a conflict.

### **Sec. 16.6.110. Multi-family building design and development standards (Sec. 16.18.20)**

The following **Tables 16.6.110.a. and 16.6.110.b.** establish the design standards for all multi-family development and mixed-use development that incorporates multi-family housing. The tables capture building materials, colors, architectural variety, and architectural details. Using the Tables:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district

- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family Development

**Table 16.6.110.a. Building Materials and Colors Design Criteria for Multi-Family Residential Uses by Zone District**

Building Materials	Zone District		
	SP	DN	TC
Primary Materials Required*	20% Minimum	30% Minimum	
Secondary Materials Required*	80% Maximum	70% Maximum	
Accent Materials*	5-10% Building Facades		
Building Colors	Zone District		
	SP	DN	TC
Colors shall be compatible with character of the surrounding area.	X		
Colors shall be of subdued and muted tones.	X		
Earth-tone colors and neutral colors are encouraged as the primary building color.	X		
Reflective or neon primary and secondary colors shall not be permitted as exterior paint colors on any structure. Reflective or neon colors may be allowed for trim and accent elements as approved by the Town Manager.	X		
Roof material colors should be darker and warm, earth-toned hues that accent and complement other building colors.	X		

(a) Supplemental building materials provisions for multi-family residential.

1. Permitted Materials. Exterior materials shall be permitted as follows:

a. Primary Materials:

- (1) Brick, unpainted.
- (2) Stone, unpainted

b. Secondary Materials:

- (1) Any primary materials
- (2) Glass
- (3) Metal Siding
- (4) Color Concrete
- (5) Stucco (or equal or better simulated material)
- (6) Horizontal Wood Clap board (or equal or better simulated material)

c. Accent Materials:

- (1) Any Primary or Secondary Materials may be used as an accent material
- (2) Wood trim (or equal or better simulated material)
- (3) Precast stone, or wood moldings or similar architectural details (or equal or better simulated material)
- (4) Prohibited Materials:
  - o Vinyl Siding
  - o Exterior Insulation Finishing Systems (EIFS)
- d. Material Changes. Except for accent materials, changes in the façade material shall only occur at horizontal expression lines, with the heavier material below the lighter material. Alternatively, changes in the material may occur at differentiated structural bays that meet the horizontal massing requirements.

**Table 16.6.110.b. Architectural Variety and Details for Multi-Family Residential Uses by Zone District**

Architectural Variety	Zone District		
	SP	DN	TC
Shall have varied building heights, styles, colors, and building details.		X	
Shall incorporate one (1) model for every four (4) buildings at a minimum. Models shall be evenly utilized to the maximum extent practicable.		X	
Distinct building designs, as required above, shall be easily distinguished through a minimum of two (2) of the following criteria. <ul style="list-style-type: none"> <li>• A variation in length of 30% or more</li> <li>• A variation in the footprint of the building of 30% or more</li> <li>• A distinct variation in use of materials</li> <li>• A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass (i.e., apartments vs. townhomes vs. duplexes)</li> <li>• A distinct variation in building height and roof form</li> </ul>		X	
For developments of three (3) or more stacked buildings, a floor plan may be repeated; however, identical building facades shall not be replicated more than twice within the development.	-		X
Architectural Details	Zone District		
	SP	DN	TC

<p>Facades shall be articulated through the incorporation of four (4) or more of the following elements within every thirty-five-foot (35') length of the façade and on a minimum of seventy-five percent (75%) of the façade area.</p> <ul style="list-style-type: none"> <li>• Balconies</li> <li>• Bay or box windows</li> <li>• Recesses, projections, or significant offsets in the wall plane</li> <li>• Porches</li> <li>• Dormers</li> <li>• Variations in materials</li> <li>• Variations in roof forms</li> <li>• Each building shall feature walls that are articulated by distinct, individualized, and covered entrances</li> <li>• Chimneys that project from the wall plane</li> <li>• Balconies and/or other outdoor living space</li> <li>• Bay or box windows</li> </ul>	X
All buildings shall have a fifteen-foot (15') step-back on all floors over two (2) stories when adjacent to single-family residential uses.	X
All facades shall have a clear base, middle, and cap.	X
Facades shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.	X
Buildings shall provide concentrated dwelling unit access points. Monotonous access balconies and corridors running the length of a building shall be prohibited.	X
Blocky, uniform facades are prohibited.	X
Buildings shall feature a combination of primary and secondary roof forms. Primary pitched roof forms shall be articulated by at least one (1) of the following elements.	X
<ul style="list-style-type: none"> <li>• Changes in plane and elevations</li> <li>• Dormers, gables, or clerestories</li> <li>• Transitions to secondary roofs over entrances, garages, porches, or bay windows</li> </ul>	
Roofs shall incorporate pitches of between 3:12 and 12:12; however, alternative roof forms may be permitted at the discretion of the Manager.	X
Roofing materials shall be appropriate to the architectural style of a building.	X
Where exposed to public view, roof materials shall be selected from enameled standing seam metal, concrete or clay tiles, copper metal, wood textured (architectural grade), or composition asphalt shingles.	X
The use of plastic, fiberglass, other metal, or glass visible to public view is prohibited.	X

*(b) Supplemental architectural design detail for multi-family residential.*

1. Rooftop amenities are not permitted within the suburban perimeter zone district. These amenities are permitted within the development node and town core zone districts.

- a. Rooftop open space areas shall be included in all open space requirements and calculations.
- b. Rooftop open spaces shall maintain adequate safety features to reduce the possibility of harm to residents, guests, and employees during use. These safety mechanisms shall be shown on the site plan submittal.
2. Ground floor active uses are required within the development node and town core zone districts.

~~(c) Building Materials~~

~~3. Permitted Materials. Exterior materials shall be permitted as follows:~~

~~a. Primary Materials:~~

- ~~(3) Brick, unpainted.~~
- ~~(4) Stone, unpainted~~

~~b. Secondary Materials:~~

- ~~(1) Any primary materials~~
- ~~(2) Glass~~
- ~~(3) Metal Siding~~
- ~~(4) Color Concrete~~
- ~~(5) Stucco (or equal or better simulated material)~~
- ~~(6) Horizontal Wood Clap board (or equal or better simulated material)~~

~~c. Accent Materials:~~

- ~~(1) Any Primary or Secondary Materials may be used as an accent material~~
- ~~(2) Wood trim (or equal or better simulated material)~~
- ~~(3) Precast stone, or wood moldings or similar architectural details (or equal or better simulated material)~~
- ~~(4) Prohibited Materials:~~

- ~~o Vinyl Siding~~
- ~~o EIFS~~

~~d. Material Changes. Except for accent materials, changes in the façade material shall only occur at horizontal expression lines, with the heavier material below the lighter material. Alternatively, changes in the material may occur at differentiated structural bays that meet the horizontal massing requirements.~~

**Sec. 16.6.120. Multi-family landscaping and streetscape standards**

The following [Table 16.6.120.a](#) establishes the landscape and streetscape design standards for all multi-family development and mixed-use development that incorporates multi-family housing. [Additional regulations pertaining to open space, buffering, and pedestrian circulation can be found in Article 5, Division 1 of this Code.](#) Using the Table:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district
- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)

- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family Development

**Table 16.6.120.a.10.b – Multi-family Open Space, Landscaping and Streetscaping Amenity Design and Development Standards by Zone District**

Landscaping	Zone District		
	SP	DN	TC
A minimum of 1 tree / 1,000 sqft of landscaped area shall be provided, subject to adopted water conservation policies.		X	
A minimum of 1 shrub / 150 sqft of landscaped area shall be provided and must be grouped and distributed throughout the site. With the Town Manager’s approval, trees may be substituted for up to ½ of the required shrubs at the rate of 1 tree for every 10 shrubs.		X	
Irrigated turf or an alternative as approved by the Town Manager, shall be utilized for active recreation areas, and maintained to appropriate industry standards.		X	
Native grass is highly encouraged for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight inches (8") following industry standard establishment timeframes.		X	
Live materials shall be located between the front of the building and adjacent roadways at the following minimum rates.	65%	50%	10%
Streetscaping	Zone District		
	SP	DN	TC
Perimeter treatment adjacent to roadways should include a landscape buffer of varying widths, with a minimum width of ten feet (10') and a maximum width of twenty feet (20'). An exception may be granted by the Town Manager for infill town center projects.		X	
A pathway at least six feet (6') in width shall be provided parallel to the street.		X	
A landscape strip ten feet (10') in width shall be planted with at least 1-large tree per thirty-five feet (35') of frontage between the street and pedestrian pathway. An exception may be granted by the Town Manager for infill town center projects.	75% shade / deciduous species		25% other approved species
Coniferous / evergreen trees must be placed a minimum of ten feet (10') off the southern edge of a bike path or curb to minimize shading and icing concerns where possible.		X	

Sec. 16.6.130. ~~Supplemental Provisions~~—Amenity Ppoints for multi-family residential (Sec. 16.18.30(c)) Amenities for residents should include active and passive spaces that are age-appropriate for current and future residents of all abilities. Credit shall be given for incorporated features as listed below. Credit may be provided for amenity features not included in this list. Such credit shall be based on the

determination of the Town Manager, based on a review of the variety of amenities proposed. Final decision by the Town Manager may be appealed in accordance with the appeals procedures of this Code.

**Table 16.6.140.a. Amenity Point Calculations for Multi-family Developments**

Residential Unit Breakdown	Zone District		
	SP	DN	TC
Up to 10 dwelling units	1		
11-30 Units	2	3	2
31-50 Units	3	5	
51-150 Units	5	6	
More than 151 dwelling units	7		

- (a) Two (2) Amenity Points each
  - 1. Pool
  - 2. Community Clubhouse with Fitness Center included – large (more than 2,500 sqft)
  - 3. Multifunctional playgrounds with commercial grade equipment – large (greater than 2,500 sqft playground zone area)
- (b) One (1) Amenity Points each
  - 1. Community Clubhouse – small (less than 2,500 sqft)
  - 2. Fitness Center (5 or more pieces of equipment)
  - 3. Dog Park – Large
  - 4. Multifunctional playgrounds with commercial grade equipment – medium (1,000 to 2,500 sqft playground zone area)
  - 5. Court games (tennis, volleyball, basketball, etc.) at least 1,000 sqft in size shall each count
  - 6. System of trails throughout the entire development
    - a. Trails shall be designed to provide interesting and distinct areas for walking, bicycling and or riding in areas separate from and in addition to traditional sidewalks. Trails shall be designed and constructed as required by the Town, see Article 5 of this Code.
- (c) One-half (.5) Amenity Points each
  - 1. Dog Run
  - 2. Fitness Center (fewer than 5 pieces of equipment)
  - 3. Plazas, courtyards, community gazebo, or community gardens with irrigation systems and defined garden edges of at least 1,000 sqft in size
  - 4. Public Art, as approved by the Town Manager
  - 5. Picnic / Barbeque areas with commercial grade equipment
  - 6. Multifunctional playgrounds with commercial grade equipment - small (less than 1,000 sqft playground zone area)
  - 7. Rooftop solar arrays

**Division 2 – Non-Residential Commercial and Office Design and Development Criteria Standards**  
**(Ord. 2023-02, pg. 1, Article 19 “Non-Residential Use Design and Development Standards”)**

**Sec. 16.6.200. Overview.**

- (a) *Purpose.* The intent of this section is to apply enhanced design criteria and guidelines to all non-residential development within the Town.
- (b) *Provisions.* The provisions of this section are in addition to the requirements of the underlying zone district and supersede the zone district requirements. In the event of a discrepancy between the two, the Town Manager’s decision shall be final.
- (c) *Applicability.* These standards apply to:
  - 1. New nonresidential commercial and office development.
  - 2. Modifications or additions to existing nonresidential commercial and office development, but only the portion of the development being modified.
  - 3. Mixed-use developments that incorporate multi-family housing shall be subject to the multi-family design criteria of this code.
- (d) *Site Design Considerations*
  - 1. Buildings shall be arranged to frame, enclose, or give prominence to pedestrian corridors, outdoor gathering spaces, main street pedestrian or vehicle access corridors, or the corners of street intersections or entry points into the development.
  - 2. Elements that shall be coordinated between adjacent sites include:
    - a. Shared driveways for access;
    - b. Linkages of internal vehicular and pedestrian circulation systems;
    - c. Linkages of open space systems;
    - d. Areas and access for refuse and recycling collection;
    - e. Drainage and detention facilities; and
    - f. Other improvements where a coordinated approach benefits the larger area.
  - 3. Rooftop open space shall be included in all open space requirements.
    - a. Rooftop open spaces shall maintain adequate safety features to reduce the possibility of harm during their use. These safety mechanisms shall be shown on the site plan submittal and shall be approved by the Town Manager.

**Commented [JO1]:** Relocated here from under the tables

**Sec. 16.6.210. Non-Residential Commercial and Office Design and Development Standards (Ord. 2023-02, pg. 2, Sec. 16.19.20)**

The following **Tables 16.6.210.a., 16.6.210.b., and 16.6.210.c.** establish the design standards for all non-residential commercial and office development. The tables capture building materials, colors,

entrance features, vertical and horizontal articulation, transparency, and roof form. Using the Tables:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district
- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Non-Residential Commercial and Office Development

**Table 16.6.210.a. Non-Residential Building Materials and Colors Design and Development Standards by Zone District**

Building Materials*	Zone District		
	SP	DN	TC
Simple material finishes are encouraged, and matte finishes are preferred.			
Primary Materials Required	50% to 90%		
Secondary Materials Required	20% to 40%		
Accent Materials	10% to 30%		
Building Colors	Zone District		
	SP	DN	TC
Colors shall complement one another and fit the overall architectural character of the area and be context sensitive to surrounding buildings.		X	
Intense, bright, or fluorescent colors and glossy finishes shall not be used as the predominant color on any exterior wall or roof of any structure.		X	

- (a) Exterior building materials should be simple, durable, and shall be compatible with the idea of agrarian architecture. While some diversity in exterior building materials and color is a part of the tradition of commercial districts, the range should be limited to promote a sense of visual continuity for the Town.
1. Permitted Materials. No more than four (4) materials should be used, including the use of secondary and accent materials. Exterior materials shall be permitted as follows:
    - a. Primary Materials:
      - (1) Brick, unpainted
      - (2) Natural Stone, unpainted
      - (3) Other quality materials, such as repurposed materials
    - b. Secondary Materials:
      - (1) Any primary materials may be used as a secondary material
      - (2) Glass (*i.e., clear, and semi-transparent*)
      - (3) Metal Siding (*twenty five percent (25%) maximum per building façade*)
      - (4) Color Concrete

- (5) Stucco (*masonry*)
- (6) Quality wood or composite siding or panels
- (7) Architectural tiles
- (8) Fiber cement board
- (9) Other quality materials, such as repurposed materials
- c. Accent Materials:
  - (1) Any Primary or Secondary Materials may be used as an accent material
  - (2) Wood trim (*or equal or better simulated material*)
  - (3) Precast stone, or wood moldings or similar architectural details (*or equal or better simulated material*)
- d. Prohibited Materials:
  - (1) Vinyl Siding
  - (2) Exterior Insulation and Finish Systems (*EIFS*)
  - (3) Reflective or mirror glass

**Table 16.6.210.b. Non-Residential Building Entrance Designs, Vertical and Horizontal Articulation Design and Development Standards by Zone District**

Building Entrances	Zone District		
	SP	DN	TC
<del>Building facades fronting a public street or civic open space shall include a primary entrance feature at ground level that is directly accessible from an adjacent sidewalk or pedestrian pathway. Facades that face a public street or civic open space shall contain a single-story primary entrance feature.</del>		X	
<del>Primary entrances must be clearly identifiable and directly oriented toward adjacent sidewalks or designated pedestrian routes to ensure convenient and visible pedestrian access. Primary entrances shall be clearly defined and oriented to the sidewalk and primary pedestrian ways.</del>		X	
Entrance features shall occur along a building frontage.	Every 75'		Every 50'
For a single-tenant building, façades shall be differentiated by horizontal massing techniques.		X	
Public entryways shall create architectural interest and variation from other portions of the building by incorporating the following features: <ul style="list-style-type: none"> <li>• Changes in building plane through recesses and/or projections a minimum of two feet (2') in dimension;</li> <li>• Canopies, awnings, arcades, galleries, or other overhangs;</li> <li>• Raised corniced parapets over the door;</li> <li>• Peaked roof forms;</li> <li>• Display windows;</li> <li>• Integrated architectural embellishments such as moldings;</li> <li>• Changes in building material, color, and/or texture;</li> <li>• Special paving treatments;</li> <li>• Other substantial design elements that add visual interest.</li> </ul>	Minimum of 3 features		Minimum of 5 features

**Commented [JO2]:** Rephrase these two to capture the intent - ability to access via a sidewalk or other areas.

Corner buildings to be designed with angled entrances at the corner.	-	In an urban / walkable context	
<b>Horizontal Articulation</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Building façades greater than fifty feet (50') in length shall incorporate variations in the wall plane with projections, recesses, or other variations from the main mass having a depth of at least two feet (2').		X	
Building façades shall incorporate a change of materials as follows: <ul style="list-style-type: none"> <li>At least three (3) materials for street facing façades or when facing other public areas; and</li> <li>At least two (2) materials for all other facades.</li> </ul>		X	
Each building façade shall incorporate the following elements: <ul style="list-style-type: none"> <li>Change in building colors;</li> <li>Change in textures;</li> <li>Variation in window design; or</li> <li>Other substantial design elements that add visual interest.</li> </ul>	Minimum of 2 elements		Minimum of 3 elements
Remaining blank wall areas shall be broken-up by patterns of windows and doors, ornamental architectural details or changes in materials that are consistent with the architectural style of the building.		X	
<b>Vertical Articulation</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Buildings taller than twenty feet (20') shall be designed so the massing or façade articulation of the building presents a clear base, middle, and top.		X	
Visually heavier and more massive elements shall be incorporated at the building base with lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.		X	
Lower levels of multi-story buildings are to be differentiated by incorporating elements such as the following: <ul style="list-style-type: none"> <li>Veneer banding or wainscot;</li> <li>Change in materials and/or change in textures;</li> <li>Heavier materials and darker colors on lower levels;</li> <li>Integrated covered walkways, trellises, or architectural awnings;</li> <li>Low planters and walls; or</li> <li>Other substantial design elements that distinguish lower levels.</li> </ul>		X	
Buildings shall incorporate four-sided design where all parts are perceived as a coordinated part of a unified whole. Specifically: <ul style="list-style-type: none"> <li>All sides shall exhibit the same quality, continuity, and durability of design including the same primary and secondary materials. Important sides can reflect priority in the allocation of materials.</li> <li>All sides visible from streets, public spaces, or active portions of adjacent sites shall have a similar level of trim, accent material, details, and ornamentation. Greater importance shall be given to areas closest to the public realm or with greater visibility. Parts not exposed to the public may be designed for utility.</li> </ul>		X	

**Table 16.6.210.c. Non-Residential Transparency and Roof Form Design and Development Standards by Zone District**

Commented [JO3]: Create intent and lead in to table.

Transparency ( <i>windows, doors, and openings</i> )	Zone District		
	SP	DN	TC
Ground floor façades facing a public street or other public area shall contain windows and/or doorways.	50% minimum of the total area		
Upper floor facades facing a public street or other public area shall contain windows and/or doorways.	15% minimum of the total area		
Storefront display windows and doors shall allow visibility into and out of the store.	X		
Windows shall be accented and defined with detail elements, such as frames, sills, and lintels.	X		
Roof Form	Zone District		
	SP	DN	TC
No roofline along any building elevation shall exceed 30 feet in length without a visual variation that incorporates any of the following: <ul style="list-style-type: none"> <li>• Projections or recessions of at least two feet (2') in depth;</li> <li>• Dormers;</li> <li>• Change in roof height of at least two feet (2'); or</li> <li>• Distinct architectural features.</li> </ul>		X	
Roofs of buildings shall have parapets or enclosures concealing flat roofs and roof-top equipment from public view and be constructed of materials that match the building in quality and detail. Three-dimensional cornice treatments shall be incorporated as part of the architectural design.		X	
Roofs shall be designed to accommodate solar energy systems to the maximum extent practical.		X	
Roofing materials shall be appropriate to the building architecture.		X	

**Sec. 16.6.220. Screening of ancillary uses and utilities**

- (a) Ancillary uses such as outdoor storage areas, trash and recycling areas, loading, and unloading areas, service areas, HVAC equipment, and on-site utilities shall be screened to the greatest extent possible from view of public rights-of-way, amenity and public spaces, and adjacent properties by a combination of walls, fences, landscaping, or other similar device and be incorporated into the overall site and building design.
- (b) Building mounted utilities and equipment shall be screened from view of public rights-of-way, amenity and public spaces, and adjacent properties by a combination of walls, fences, landscaping, or other similar devices, and shall be painted to match the adjacent wall color, when applicable.
- (c) Ancillary uses shall be located to the rear of the property or in a way that mitigates their

potential impacts on surrounding properties and the public realm.

(d) Views of ancillary uses shall be separated from sidewalks and on-site pedestrian ways. Screening structures shall be made of the same materials as the principal structure if not placed behind the building.

(e) Outdoor display and storage areas shall not encroach on any portion of a walkway, drive aisles, required parking spaces, or landscape area unless otherwise authorized by this Code.

**Sec. 16.6.230. Non-Residential Commercial and Office Landscaping and Streetscape Design and Development Standards (Ord. 2023-02, pg. 2, Sec. 16.19.20)**

Table 16.6.230.a. below establishes the landscaping and streetscape design standards for all non-residential commercial and office developments. [Additional regulations pertaining to open space, buffering, and pedestrian circulation can be found in Article 5, Division 1 of this Code.](#) Using the Tables:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district
- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Non-Residential Commercial and Office Development

**Table 16.6.230.a – Non-Residential Landscaping and Streetscaping Design and Development Standards by Zone District**

Landscaping	Zone District		
	SP	DN	TC
The following areas are required to be landscaped: <ul style="list-style-type: none"> <li>• Bufferyards;</li> <li>• Plazas and courtyards;</li> <li>• Parking areas using islands/medians/perimeter plantings;</li> <li>• Streetscapes;</li> <li>• Stormwater areas; and</li> <li>• Unused portions of a site not already occupied by site features.</li> </ul>	X	X	Site Dependent Context Sensitive
A minimum of 1 tree / 1,000 sqft of landscaped area shall be provided, subject to adopted water conservation policies.	Minimum 50% shade/ deciduous Minimum 25% coniferous		

**Commented [JO4]:** Fix verbiage throughout - consider new icon that can be described above? Or another word.

A minimum of 1 shrub / 150 sqft of landscaped area shall be provided and must be grouped and distributed throughout the site. With approval, trees may be substituted for up to ½ of the required shrubs at the rate of 1 tree / 10 shrubs.	X		
Irrigated turf or an alternative as approved, shall be utilized for active recreation areas and maintained to appropriate industry standards.	X		
Native grass is highly encouraged for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight inches (8") following industry standards for establishment timeframes.	X		
Landscaped areas shall be covered with live irrigated, lower water consuming ground cover, except for areas where additional hardscape is allowed or an alternative as approved.	Minimum 75% of landscape area	<a href="#">Context Sensitive Site Dependent</a>	
Pedestrian walks and other hardscape landscape features and amenities may comprise the required landscape areas. Includes features such as outdoor seating areas, plazas with recreation and entertainment areas, water features, public art, and approved permeable pavement.	Maximum 50% of landscape area	Maximum 75% of landscape area	
Landscape buffers shall be provided in accordance with the buffering criteria of this Code.	X	<a href="#">Context Sensitive Site Dependent</a>	
Parking lot landscaping shall be provided in accordance with the parking lot design criteria of this Code.	X		
Plazas and courtyards shall include following amenity element types:	Minimum of 3 element types	Minimum of 4 element types	
<ul style="list-style-type: none"> <li>Seating at 1 space / 150 square feet of plaza/courtyard area (seating may be provided with chairs and tables, benches, and/or seating walls);</li> <li>Trees appropriate for the space planted at 1 tree / 750 square feet of plaza or courtyard area;</li> <li>Art or creative features (i.e., water features, fire features, interactive features for families and kids);</li> <li>Areas and facilities for recreation, entertainment, or educational activities;</li> <li>Other appropriate amenities or design elements.</li> </ul>			
<b>Streetscaping</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Perimeter treatment adjacent to roadways should include a landscape buffer of varying widths, with a minimum width of ten feet (10') and a maximum width of twenty feet (20'). An exception may be granted by the Town Manager for infill town core projects.	X		
A pathway at least six feet (6') in width shall be provided parallel to the street. The pathway shall be designed to provide adequate space for pedestrians, street furniture, outdoor seating areas, landscaping, and other amenities to enhance the pedestrian experience.	X	X	<a href="#">Context Sensitive Site Dependent</a>

<p>A landscape strip ten feet (10') in width shall be planted with at least 1 tree / 35 feet of frontage between the street and pedestrian pathway. The landscape strip, where applicable, shall be landscaped with irrigated lower water-consuming grass or other material suitable for the area. An exception may be granted by the Town Manager for infill town core projects.</p>	<p>75% shade / deciduous species 25% other approved species</p>
<p>Coniferous / evergreen trees shall be placed a minimum of ten feet (10') off the southern edge of a public street, sidewalk, or trail to minimize winter icing concerns where possible.</p>	<p>X</p>

**Sec. 16.6.240. Supplemental Provisions – Open Space and Landscaping (Ord. 2023-02, pg. 10, Sec. 16.19.40)**

This design criteria supplements and supports the criteria located in ~~this Code~~ other sections of this Code pertaining to topics such as open space, landscaping, buffering, pedestrian circulation, and parking design standards. Any applicant or entity wishing to develop or construct within the Town shall review and conform to all applicable criteria of this Code.

(a) Open Space and Landscaping

1. Open spaces should be designed to serve multiple requirements of this Code including buffers, screening, stormwater, or formal open space. In no instance should open space design and integration compromise other design objections and functions such as site drainage.
2. Plazas and courtyards may be required for mixed-use or nonresidential developments based on consideration of the scope and scale of the proposal and mix of uses, the proposed building placement and design, and the quality of the proposed landscape and screening design.
3. Plazas and courtyards shall be centrally located within the development area and accessible to residents, customers, and guests they are intended to serve.

## Article 6 – Design Standards

### Sec. 16.6.10. Intent *(new)*

The intent of this Article is to establish the minimum design and development standards for all projects within the Town. These standards are intended to:

- Provide minimum standards for enhanced architectural character throughout the community;
- Promote a higher quality of community-wide design and development;
- Protect the character of new and existing neighborhoods;
- Create appropriate transitions and compatibility, where possible, of adjacent land uses;
- Prevent neighborhood blight, deterioration, and decay;
- Create diversity in design between different neighborhood areas and land uses;
- Promote the creation of distinct places within the community.

### Sec. 16.6.20. Applicability *(new)*

- (a) The standards of this Article apply to all properties within the Town, where applicable.
- (b) The Town will, from time-to-time, conduct studies and analysis of neighborhood areas, corridors, and development nodes that identify additional development and design criteria. This criteria may be established by resolution of the Town Council. When established by resolution, such criteria are hereby incorporated by reference into this Article, and all projects within these areas must comply with the applicable design criteria.

## Division 1 – Multi-Family Residential Design and Development Standards (Chapter 16, Article 18)

### Sec. 16.6.100. Intent *(Sec. 16.18.10)*

- (a) *Purpose.* The intent of this section is to apply enhanced design criteria and guidelines to all uses within the Town classified as “multi-family dwellings” under this Code.
- (b) *Provisions.* The provisions of this section are in addition to the requirements of the underlying zone district and supersede the zone district requirements in the event of a conflict.

### Sec. 16.6.110. Multi-family building design and development standards *(Sec. 16.18.20)*

The following Tables 16.6.110.a. and 16.6.110.b. establish the design standards for all multi-family development and mixed-use development that incorporates multi-family housing. The tables capture building materials, colors, architectural variety, and architectural details. Using the Tables:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district

- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family Development

**Table 16.6.110.a. Building Materials and Colors Design Criteria for Multi-Family Residential Uses by Zone District**

Building Materials	Zone District		
	SP	DN	TC
Primary Materials Required*	20% Minimum	30% Minimum	
Secondary Materials Required*	80% Maximum	70% Maximum	
Accent Materials*	5-10% Building Facades		
Building Colors	Zone District		
	SP	DN	TC
Colors shall be compatible with character of the surrounding area.		X	
Colors shall be of subdued and muted tones.		X	
Earth-tone colors and neutral colors are encouraged as the primary building color.		X	
Reflective or neon primary and secondary colors shall not be permitted as exterior paint colors on any structure. Reflective or neon colors may be allowed for trim and accent elements as approved by the Town Manager.		X	
Roof material colors should be darker and warm, earth-toned hues that accent and complement other building colors.		X	

- (a) Supplemental building materials provisions for multi-family residential.
1. Permitted Materials. Exterior materials shall be permitted as follows:
    - a. Primary Materials:
      - (1) Brick, unpainted.
      - (2) Stone, unpainted
    - b. Secondary Materials:
      - (1) Any primary materials
      - (2) Glass
      - (3) Metal Siding
      - (4) Color Concrete
      - (5) Stucco (or equal or better simulated material)
      - (6) Horizontal Wood Clap board (or equal or better simulated material)
    - c. Accent Materials:

- (1) Any Primary or Secondary Materials may be used as an accent material
- (2) Wood trim (or equal or better simulated material)
- (3) Precast stone, or wood moldings or similar architectural details (or equal or better simulated material)
- (4) Prohibited Materials:
  - o Vinyl Siding
  - o Exterior Insulation Finishing Systems (EIFS)
- d. Material Changes. Except for accent materials, changes in the façade material shall only occur at horizontal expression lines, with the heavier material below the lighter material. Alternatively, changes in the material may occur at differentiated structural bays that meet the horizontal massing requirements.

**Table 16.6.110.b. Architectural Variety and Details for Multi-Family Residential Uses by Zone District**

Architectural Variety	Zone District		
	SP	DN	TC
Shall have varied building heights, styles, colors, and building details.		X	
Shall incorporate one (1) model for every four (4) buildings at a minimum. Models shall be evenly utilized to the maximum extent practicable.		X	
Distinct building designs, as required above, shall be easily distinguished through a minimum of two (2) of the following criteria. <ul style="list-style-type: none"> <li>• A variation in length of 30% or more</li> <li>• A variation in the footprint of the building of 30% or more</li> <li>• A distinct variation in use of materials</li> <li>• A variation in the type of dwelling unit contained in the building that results in a significantly different scale and mass (i.e., apartments vs. townhomes vs. duplexes)</li> <li>• A distinct variation in building height and roof form</li> </ul>		X	
For developments of three (3) or more stacked buildings, a floor plan may be repeated; however, identical building facades shall not be replicated more than twice within the development.	-		X
Architectural Details	Zone District		
	SP	DN	TC

<p>Facades shall be articulated through the incorporation of four (4) or more of the following elements within every thirty-five-foot (35') length of the façade and on a minimum of seventy-five percent (75%) of the façade area.</p> <ul style="list-style-type: none"> <li>• Balconies</li> <li>• Bay or box windows</li> <li>• Recesses, projections, or significant offsets in the wall plane</li> <li>• Porches</li> <li>• Dormers</li> <li>• Variations in materials</li> <li>• Variations in roof forms</li> <li>• Each building shall feature walls that are articulated by distinct, individualized, and covered entrances</li> <li>• Chimneys that project from the wall plane</li> <li>• Balconies and/or other outdoor living space</li> <li>• Bay or box windows</li> </ul>	X
All buildings shall have a fifteen-foot (15') step-back on all floors over two (2) stories when adjacent to single-family residential uses.	X
All facades shall have a clear base, middle, and cap.	X
Facades shall be designed to incorporate visually heavier and more massive elements at the building base, and lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of the building.	X
Buildings shall provide concentrated dwelling unit access points. Monotonous access balconies and corridors running the length of a building shall be prohibited.	X
Blocky, uniform facades are prohibited.	X
Buildings shall feature a combination of primary and secondary roof forms. Primary pitched roof forms shall be articulated by at least one (1) of the following elements.	X
<ul style="list-style-type: none"> <li>• Changes in plane and elevations</li> <li>• Dormers, gables, or clerestories</li> <li>• Transitions to secondary roofs over entrances, garages, porches, or bay windows</li> </ul>	
Roofs shall incorporate pitches of between 3:12 and 12:12; however, alternative roof forms may be permitted at the discretion of the Manager.	X
Roofing materials shall be appropriate to the architectural style of a building.	X
Where exposed to public view, roof materials shall be selected from enameled standing seam metal, concrete or clay tiles, copper metal, wood textured (architectural grade), or composition asphalt shingles.	X
The use of plastic, fiberglass, other metal, or glass visible to public view is prohibited.	X

*(b) Supplemental architectural design detail for multi-family residential.*

1. Rooftop amenities are not permitted within the suburban perimeter zone district. These amenities are permitted within the development node and town core zone districts.

- a. Rooftop open space areas shall be included in all open space requirements and calculations.
  - b. Rooftop open spaces shall maintain adequate safety features to reduce the possibility of harm to residents, guests, and employees during use. These safety mechanisms shall be shown on the site plan submittal.
2. Ground floor active uses are required within the development node and town core zone districts.

**Sec. 16.6.120. Multi-family landscaping and streetscape standards**

The following Table 16.6.120.a establishes the landscape and streetscape design standards for all multi-family development and mixed-use development that incorporates multi-family housing. Additional regulations pertaining to open space, buffering, and pedestrian circulation can be found in Article 5, Division 1 of this Code. Using the Table:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district
- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Multi-Family Development

**Table 16.6.120.a. Multi-family Landscaping and Streetscaping Design and Development Standards by Zone District**

Landscaping	Zone District		
	SP	DN	TC
A minimum of 1 tree / 1,000 sqft of landscaped area shall be provided, subject to adopted water conservation policies.		X	
A minimum of 1 shrub / 150 sqft of landscaped area shall be provided and must be grouped and distributed throughout the site. With the Town Manager’s approval, trees may be substituted for up to ½ of the required shrubs at the rate of 1 tree for every 10 shrubs.		X	
Irrigated turf or an alternative as approved by the Town Manager, shall be utilized for active recreation areas, and maintained to appropriate industry standards.		X	
Native grass is highly encouraged for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight inches (8") following industry standard establishment timeframes.		X	

Live materials shall be located between the front of the building and adjacent roadways at the following minimum rates.	65%	50%	10%
<b>Streetscaping</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Perimeter treatment adjacent to roadways should include a landscape buffer of varying widths, with a minimum width of ten feet (10') and a maximum width of twenty feet (20'). An exception may be granted by the Town Manager for infill town center projects.		X	
A pathway at least six feet (6') in width shall be provided parallel to the street.		X	
A landscape strip ten feet (10') in width shall be planted with at least 1-large tree per thirty-five feet (35') of frontage between the street and pedestrian pathway. An exception may be granted by the Town Manager for infill town center projects.			75% shade / deciduous species 25% other approved species
Coniferous / evergreen trees must be placed a minimum of ten feet (10') off the southern edge of a bike path or curb to minimize shading and icing concerns where possible.		X	

**Sec. 16.6.130. Amenity points for multi-family residential (Sec. 16.18.30(c))**

Amenities for residents should include active and passive spaces that are age-appropriate for current and future residents of all abilities. Credit shall be given for incorporated features as listed below. Credit may be provided for amenity features not included in this list. Such credit shall be based on the determination of the Town Manager, based on a review of the variety of amenities proposed. Final decision by the Town Manager may be appealed in accordance with the appeals procedures of this Code.

**Table 16.6.140.a. Amenity Point Calculations for Multi-family Developments**

<b>Residential Unit Breakdown</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Up to 10 dwelling units		1	
11-30 Units	2	3	2
31-50 Units	3	5	
51-150 Units	5	6	
More than 151 dwelling units		7	

(a) Two (2) Amenity Points each

1. Pool
2. Community Clubhouse with Fitness Center included – large (more than 2,500 sqft)
3. Multifunctional playgrounds with commercial grade equipment – large (greater than 2,500 sqft playground zone area)

(b) One (1) Amenity Points each

1. Community Clubhouse – small (less than 2,500 sqft)

2. Fitness Center (5 or more pieces of equipment)
  3. Dog Park – Large
  4. Multifunctional playgrounds with commercial grade equipment – medium (1,000 to 2,500 sqft playground zone area)
  5. Court games (tennis, volleyball, basketball, etc.) at least 1,000 sqft in size shall each count
  6. System of trails throughout the entire development
    - a. Trails shall be designed to provide interesting and distinct areas for walking, bicycling and or riding in areas separate from and in addition to traditional sidewalks. Trails shall be designed and constructed as required by the Town, see Article 5 of this Code.
- (c) One-half (.5) Amenity Points each
1. Dog Run
  2. Fitness Center (fewer than 5 pieces of equipment)
  3. Plazas, courtyards, community gazebo, or community gardens with irrigation systems and defined garden edges of at least 1,000 sqft in size
  4. Public Art, as approved by the Town Manager
  5. Picnic / Barbeque areas with commercial grade equipment
  6. Multifunctional playgrounds with commercial grade equipment - small (less than 1,000 sqft playground zone area)
  7. Rooftop solar arrays

## **Division 2 – Non-Residential Commercial and Office Design and Development Standards (*Ord. 2023-02, pg. 1, Article 19 “Non-Residential Use Design and Development Standards”*)**

### **Sec. 16.6.200. Overview.**

- (a) *Purpose.* The intent of this section is to apply enhanced design criteria and guidelines to all non-residential development within the Town.
- (b) *Provisions.* The provisions of this section are in addition to the requirements of the underlying zone district and supersede the zone district requirements. In the event of a discrepancy between the two, the Town Manager’s decision shall be final.
- (c) *Applicability.* These standards apply to:
  1. New nonresidential commercial and office development.
  2. Modifications or additions to existing nonresidential commercial and office development, but only the portion of the development being modified.
  3. Mixed-use developments that incorporate multi-family housing shall be subject to the multi- family design criteria of this code.

(d) *Site Design Considerations*

1. Buildings shall be arranged to frame, enclose, or give prominence to pedestrian corridors, outdoor gathering spaces, main street pedestrian or vehicle access corridors, or the corners of street intersections or entry points into the development.
2. Elements that shall be coordinated between adjacent sites include:
  - a. Shared driveways for access;
  - b. Linkages of internal vehicular and pedestrian circulation systems;
  - c. Linkages of open space systems;
  - d. Areas and access for refuse and recycling collection;
  - e. Drainage and detention facilities; and
  - f. Other improvements where a coordinated approach benefits the larger area.
3. Rooftop open space shall be included in all open space requirements.
  - a. Rooftop open spaces shall maintain adequate safety features to reduce the possibility of harm during their use. These safety mechanisms shall be shown on the site plan submittal and shall be approved by the Town Manager.

**Sec. 16.6.210. Non-Residential Commercial and Office Design and Development Standards (Ord. 2023-02, pg. 2, Sec. 16.19.20)**

The following Tables 16.6.210.a., 16.6.210.b., and 16.6.210.c. establish the design standards for all non-residential commercial and office development. The tables capture building materials, colors, entrance features, vertical and horizontal articulation, transparency, and roof form. Using the Tables:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district
- ( \* ) denotes additional standards apply and are specified below the table
- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Non-Residential Commercial and Office Development

**Table 16.6.210.a. Non-Residential Building Materials and Colors Design and Development Standards by Zone District**

Building Materials*	Zone District		
	SP	DN	TC
Simple material finishes are encouraged, and matte finishes are preferred.			
Primary Materials Required	50% to 90%		
Secondary Materials Required	20% to 40%		
Accent Materials	10% to 30%		
Building Colors	Zone District		

	SP	DN	TC
Colors shall complement one another and fit the overall architectural character of the area and be context sensitive to surrounding buildings.		X	
Intense, bright, or fluorescent colors and glossy finishes shall not be used as the predominant color on any exterior wall or roof of any structure.		X	

(a) Exterior building materials should be simple, durable, and shall be compatible with the idea of agrarian architecture. While some diversity in exterior building materials and color is a part of the tradition of commercial districts, the range should be limited to promote a sense of visual continuity for the Town.

1. Permitted Materials. No more than four (4) materials should be used, including the use of secondary and accent materials. Exterior materials shall be permitted as follows:

a. Primary Materials:

- (1) Brick, unpainted
- (2) Natural Stone, unpainted
- (3) Other quality materials, such as repurposed materials

b. Secondary Materials:

- (1) Any primary materials may be used as a secondary material
- (2) Glass (*i.e., clear, and semi-transparent*)
- (3) Metal Siding (*twenty five percent (25%) maximum per building façade*)
- (4) Color Concrete
- (5) Stucco (*masonry*)
- (6) Quality wood or composite siding or panels
- (7) Architectural tiles
- (8) Fiber cement board
- (9) Other quality materials, such as repurposed materials

c. Accent Materials:

- (1) Any Primary or Secondary Materials may be used as an accent material
- (2) Wood trim (*or equal or better simulated material*)
- (3) Precast stone, or wood moldings or similar architectural details (*or equal or better simulated material*)

d. Prohibited Materials:

- (1) Vinyl Siding
- (2) Exterior Insulation and Finish Systems (*EIFS*)
- (3) Reflective or mirror glass

**Table 16.6.210.b. Non-Residential Building Entrance Designs, Vertical and Horizontal Articulation Design and Development Standards by Zone District**

Building Entrances	Zone District		
	SP	DN	TC

Building facades fronting a public street or civic open space shall include a primary entrance feature at ground level that is directly accessible from an adjacent sidewalk or pedestrian pathway.	X		
Primary entrances must be clearly identifiable and directly oriented toward adjacent sidewalks or designated pedestrian routes to ensure convenient and visible pedestrian access	X		
Entrance features shall occur along a building frontage.	Every 75'	Every 50'	
For a single-tenant building, façades shall be differentiated by horizontal massing techniques.	X		
Public entryways shall create architectural interest and variation from other portions of the building by incorporating the following features: <ul style="list-style-type: none"> <li>• Changes in building plane through recesses and/or projections a minimum of two feet (2') in dimension;</li> <li>• Canopies, awnings, arcades, galleries, or other overhangs;</li> <li>• Raised corniced parapets over the door;</li> <li>• Peaked roof forms;</li> <li>• Display windows;</li> <li>• Integrated architectural embellishments such as moldings;</li> <li>• Changes in building material, color, and/or texture;</li> <li>• Special paving treatments;</li> <li>• Other substantial design elements that add visual interest.</li> </ul>	Minimum of 3 features	Minimum of 5 features	
Corner buildings to be designed with angled entrances at the corner.	-	In an urban / walkable context	
<b>Horizontal Articulation</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Building façades greater than fifty feet (50') in length shall incorporate variations in the wall plane with projections, recesses, or other variations from the main mass having a depth of at least two feet (2').	X		
Building façades shall incorporate a change of materials as follows: <ul style="list-style-type: none"> <li>• At least three (3) materials for street facing façades or when facing other public areas; and</li> <li>• At least two (2) materials for all other facades.</li> </ul>	X		
Each building façade shall incorporate the following elements: <ul style="list-style-type: none"> <li>• Change in building colors;</li> <li>• Change in textures;</li> <li>• Variation in window design; or</li> <li>• Other substantial design elements that add visual interest.</li> </ul>	Minimum of 2 elements	Minimum of 3 elements	
Remaining blank wall areas shall be broken-up by patterns of windows and doors, ornamental architectural details or changes in materials that are consistent with the architectural style of the building.	X		
<b>Vertical Articulation</b>	<b>Zone District</b>		
	<b>SP</b>	<b>DN</b>	<b>TC</b>
Buildings taller than twenty feet (20') shall be designed so the massing or façade articulation of the building presents a clear base, middle, and top.	X		
Visually heavier and more massive elements shall be incorporated at the building base with lighter elements above the base. Upper stories shall not appear heavier or demonstrate greater mass than the lower stories of	X		

the building.	
<p>Lower levels of multi-story buildings are to be differentiated by incorporating elements such as the following:</p> <ul style="list-style-type: none"> <li>• Veneer banding or wainscot;</li> <li>• Change in materials and/or change in textures;</li> <li>• Heavier materials and darker colors on lower levels;</li> <li>• Integrated covered walkways, trellises, or architectural awnings;</li> <li>• Low planters and walls; or</li> <li>• Other substantial design elements that distinguish lower levels.</li> </ul>	X
<p>Buildings shall incorporate four-sided design where all parts are perceived as a coordinated part of a unified whole. Specifically:</p> <ul style="list-style-type: none"> <li>• All sides shall exhibit the same quality, continuity, and durability of design including the same primary and secondary materials. Important sides can reflect priority in the allocation of materials.</li> <li>• All sides visible from streets, public spaces, or active portions of adjacent sites shall have a similar level of trim, accent material, details, and ornamentation. Greater importance shall be given to areas closest to the public realm or with greater visibility. Parts not exposed to the public may be designed for utility.</li> </ul>	X

**Table 16.6.210.c. Non-Residential Transparency and Roof Form Design and Development Standards by Zone District**

Transparency ( <i>windows, doors, and openings</i> )	Zone District		
	SP	DN	TC
Ground floor façades facing a public street or other public area shall contain windows and/or doorways.	50% minimum of the total area		
Upper floor facades facing a public street or other public area shall contain windows and/or doorways.	15% minimum of the total area		
Storefront display windows and doors shall allow visibility into and out of the store.	X		
Windows shall be accented and defined with detail elements, such as frames, sills, and lintels.	X		
Roof Form	Zone District		
	SP	DN	TC
<p>No roofline along any building elevation shall exceed 30 feet in length without a visual variation that incorporates any of the following:</p> <ul style="list-style-type: none"> <li>• Projections or recessions of at least two feet (2') in depth;</li> <li>• Dormers;</li> <li>• Change in roof height of at least two feet (2'); or</li> <li>• Distinct architectural features.</li> </ul>	X		

Roofs of buildings shall have parapets or enclosures concealing flat roofs and roof-top equipment from public view and be constructed of materials that match the building in quality and detail. Three-dimensional cornice treatments shall be incorporated as part of the architectural design.	X
Roofs shall be designed to accommodate solar energy systems to the maximum extent practical.	X
Roofing materials shall be appropriate to the building architecture.	X

**Sec. 16.6.220. Screening of ancillary uses and utilities**

- (a) Ancillary uses such as outdoor storage areas, trash and recycling areas, loading, and unloading areas, service areas, HVAC equipment, and on-site utilities shall be screened to the greatest extent possible from view of public rights-of-way, amenity and public spaces, and adjacent properties by a combination of walls, fences, landscaping, or other similar device and be incorporated into the overall site and building design.
- (b) Building mounted utilities and equipment shall be screened from view of public rights-of-way, amenity and public spaces, and adjacent properties by a combination of walls, fences, landscaping, or other similar devices, and shall be painted to match the adjacent wall color, when applicable.
- (c) Ancillary uses shall be located to the rear of the property or in a way that mitigates their potential impacts on surrounding properties and the public realm.
- (d) Views of ancillary uses shall be separated from sidewalks and on-site pedestrian ways. Screening structures shall be made of the same materials as the principal structure if not placed behind the building.
- (e) Outdoor display and storage areas shall not encroach on any portion of a walkway, drive aisles, required parking spaces, or landscape area unless otherwise authorized by this Code.

**Sec. 16.6.230. Non-Residential Commercial and Office Landscaping and Streetscape Design and Development Standards (Ord. 2023-02, pg. 2, Sec. 16.19.20)**

Table 16.6.230.a. below establishes the landscaping and streetscape design standards for all non-residential commercial and office developments. Additional regulations pertaining to open space, buffering, and pedestrian circulation can be found in Article 5, Division 1 of this Code. Using the Tables:

- ( X ) denotes a requirement for that zone district
- ( - ) reflects that the associated standard does not apply for the specific zone district
- ( \* ) denotes additional standards apply and are specified below the table

- Information other than an ( X ) or a ( - ) indicates specific development standards as specified in the cell
- SP column is the Suburban Perimeter Zone District
- DN column is the Development Node Zone District (including the Industrial Subzone)
- TC column is the Town Core Zone District
- The Rural Residential Zone District is not included as it does not permit Non-Residential Commercial and Office Development

**Table 16.6.230.a – Non-Residential Landscaping and Streetscaping Design and Development Standards by Zone District**

Landscaping	Zone District		
	SP	DN	TC
<p>The following areas are required to be landscaped:</p> <ul style="list-style-type: none"> <li>• Bufferyards;</li> <li>• Plazas and courtyards;</li> <li>• Parking areas using islands/medians/perimeter plantings;</li> <li>• Streetscapes;</li> <li>• Stormwater areas; and</li> <li>• Unused portions of a site not already occupied by site features.</li> </ul>	X	X	Site Dependent
A minimum of 1 tree / 1,000 sqft of landscaped area shall be provided, subject to adopted water conservation policies.	Minimum 50% shade/deciduous Minimum 25% coniferous		
A minimum of 1 shrub / 150 sqft of landscaped area shall be provided and must be grouped and distributed throughout the site. With approval, trees may be substituted for up to ½ of the required shrubs at the rate of 1 tree / 10 shrubs.		X	
Irrigated turf or an alternative as approved, shall be utilized for active recreation areas and maintained to appropriate industry standards.		X	
Native grass is highly encouraged for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight inches (8") following industry standards for establishment timeframes.		X	
Landscaped areas shall be covered with live irrigated, lower water consuming ground cover, except for areas where additional hardscape is allowed or an alternative as approved.	Minimum 75% of landscape area		Site Dependent
Pedestrian walks and other hardscape landscape features and amenities may comprise the required landscape areas. Includes features such as outdoor seating areas, plazas with recreation and entertainment areas, water features, public art, and approved permeable pavement.	Maximum 50% of landscape area		Maximum 75% of landscape area
Landscape buffers shall be provided in accordance with the buffering criteria of this Code.	X		Site Dependent
Parking lot landscaping shall be provided in accordance with the parking lot design criteria of this Code.		X	
Plazas and courtyards shall include following amenity element types:	Minimum of 3 element types		Minimum of 4

<ul style="list-style-type: none"> <li>• Seating at 1 space / 150 square feet of plaza/courtyard area (<i>seating may be provided with chairs and tables, benches, and/or seating walls</i>);</li> <li>• Trees appropriate for the space planted at 1 tree / 750 square feet of plaza or courtyard area;</li> <li>• Art or creative features (<i>i.e., water features, fire features, interactive features for families and kids</i>);</li> <li>• Areas and facilities for recreation, entertainment, or educational activities;</li> <li>• Other appropriate amenities or design elements.</li> </ul>		element types	
Streetscaping	<b>Zone District</b>		
	SP	DN	TC
Perimeter treatment adjacent to roadways should include a landscape buffer of varying widths, with a minimum width of ten feet (10') and a maximum width of twenty feet (20'). An exception may be granted by the Town Manager for infill town core projects.		X	
A pathway at least six feet (6') in width shall be provided parallel to the street. The pathway shall be designed to provide adequate space for pedestrians, street furniture, outdoor seating areas, landscaping, and other amenities to enhance the pedestrian experience.	X	X	Site Dependent
A landscape strip ten feet (10') in width shall be planted with at least 1 tree / 35 feet of frontage between the street and pedestrian pathway. The landscape strip, where applicable, shall be landscaped with irrigated lower water-consuming grass or other material suitable for the area. An exception may be granted by the Town Manager for infill town core projects.			75% shade / deciduous species 25% other approved species
Coniferous / evergreen trees shall be placed a minimum of ten feet (10') off the southern edge of a public street, sidewalk, or trail to minimize winter icing concerns where possible.		X	

**Sec. 16.6.240. Supplemental Provisions – Open Space and Landscaping (Ord. 2023-02, pg. 10, Sec. 16.19.40)**

This design criteria supplements and supports the criteria located in this Code pertaining to topics such as open space, landscaping, buffering, pedestrian circulation, and parking design standards. Any applicant or entity wishing to develop or construct within the Town shall review and conform to all applicable criteria of this Code.

(a) Open Space and Landscaping

1. Open spaces should be designed to serve multiple requirements of this Code including buffers, screening, stormwater, or formal open space. In no instance should open space design and integration compromise other design objections and functions such as site drainage.
2. Plazas and courtyards may be required for mixed-use or nonresidential developments based on consideration of the scope and scale of the proposal and mix of uses, the proposed building placement and design, and the quality of the proposed landscape and screening design.

3. Plazas and courtyards shall be centrally located within the development area and accessible to residents, customers, and guests they are intended to serve.

DRAFT

## Article 7 – Wireless Telecommunication Services and Facilities (Chapter 16, Article 10)

### Sec. 16.7.10. ~~Prohibited zoning districts~~Reserved. (Sec. 16.10.10)

~~Wireless telecommunication service facilities shall not be permitted in residential zoning districts.~~

### Sec. 16.7.20. Use permitted by ~~conditional review~~special review. (Sec. 16.10.20)

It is unlawful for any person to install or operate a wireless telecommunication service facility unless a ~~use by conditional review~~use by special review has first been approved by the Town Council, as provided in **Article 2, Chapter 16** of this Code. The approval of such ~~use by conditional review~~use by special review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, state and federal governments.

### Sec. 16.7.30. Application requirements. (Sec. 16.10.30)

- (a) Site plans. The site plans for a wireless telecommunication service facility shall be submitted on one (1) or more plats or maps at a scale not less than 1" = 50', showing the following information:
1. Proposed size, location and boundaries of the commercial mobile radio service facility site, including existing and proposed topography at two (2)-foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site.
  2. Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors.
  3. True north arrow.
  4. Locations and size of existing improvements and existing vegetation, if any, and location and size of proposed improvements, including any landscaping.
  5. Existing utility easements and other rights-of-way of record, if any.
  6. Location of access roads.
  7. Names of abutting subdivisions or the names of owners of abutting, unplatted property within five hundred (500) feet of the site, zoning and uses of adjacent parcels.
  8. Proof of ownership in a form acceptable to the Town.
- (b) Vicinity maps. The vicinity maps submitted with an application under this article shall include one (1) or more maps showing the location of existing and planned commercial mobile radio service facilities belonging to the applicant that are within five (5) miles of the proposed facility. Planned facilities may be identified in general terms and need not be addressed specifically.
- (c) Written narrative. The application shall include the following in narrative form:
1. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable.

2. An explanation of the need for such a facility, operating Plan and proposed coverage area.
3. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one (1)-mile radius of the facility.
4. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
5. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.
6. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts.
7. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town's GMA and its residents.
8. Affirmation that, if approved, the applicant and surface owner will make the facility available on a reasonable basis to other service providers.
9. An explanation of compatibility with the Comprehensive Plan.

**Sec. 16.7.40. Review criteria.** (*Sec. 16.10.40*)

- (a) The recommendation of the Planning Commission and the decision of the Town Council shall be based on whether the applicant has demonstrated that the proposed wireless telecommunication service facility meets the following standards:
  1. The site Plan complies with the foregoing requirements.
  2. The vicinity map complies with the foregoing requirements.
  3. The narrative for the application complies with the foregoing requirements.
  4. When applicable, complies with the setback and height requirements.
  5. When applicable, complies with the accessory building requirements.
  6. When applicable, complies with conditional special review mitigation co-location requirements as set forth in **Section 16.7.90** of this article.
- (b) The review criteria shall be included in the ordinance granting approval of the special conditional use.

**Sec. 16.7.50. Height and setback requirements.** (*Sec. 16.10.50*)

~~In all performance districts where wireless telecommunication service facilities are allowed as uses by conditional review, t~~The following shall apply:

- (a) Roof-mounted or building-mounted commercial mobile radio service facilities, including antennae, may not protrude above the parapet line of the building or structure nor more than eighteen (18) inches outside of the building wall, unless sufficient screening or other camouflage methods are demonstrated and accepted as part of the approval.

- (b) Applicable zoning setback requirements of this article must be met. At a minimum, all freestanding facilities shall be set back at least five hundred (500) feet from all residentially zoned properties or residential structures on properties otherwise zoned.

**Sec. 16.7.60. Accessory building requirements.** *(Sec. 16.10.60)*

- (a) Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low-maintenance materials and must be architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area that are visible from a public right-of-way or residentially zoned or used area must enclose the equipment in accessory structures acceptable to the Town.
- (b) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.

**Sec. 16.7.70. Building-mounted or roof-mounted facilities.** *(Sec. 16.10.70)*

Building-mounted or roof-mounted facilities shall be screened from public view, either by screening, location or other techniques deemed sufficient.

**Sec. 16.7.80. Freestanding wireless telecommunication service facilities requirements.** *(Sec. 16.10.80)*

All freestanding wireless telecommunication facilities shall be designed and constructed in such a manner that they are:

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

**Sec. 16.7.90. ~~Special review~~~~Conditional~~ mitigation measures for co-location.** (Sec. 16.10.90)

- (a) Unless demonstrated to be impractical, the Town shall require co-location of wireless telecommunication service facilities to minimize the number of sites.
- (b) No wireless telecommunication service facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the ~~use by conditional review~~~~use by special review~~ or site development Plan.

**Sec. 16.7.100. Application fees.** (Sec. 16.10.100)

Each applicant shall submit a land use application (example available upon request from Town Staff) and pay applicable fees based on the current fee schedule. No ~~permit approval~~ will be issued until all fees are paid.

**Sec. 16.7.110. Abandonment.** (Sec. 16.10.110)

At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.

**Sec. 16.7.120. Penalty.** (Sec. 16.10.120)

Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunication service facility in violation of any provision of this article or the conditions and requirements of the ~~conditional-use by special use-review approval~~~~permit~~, may be punished as provided in **Article 1, Chapter 16** of this Code. Each day of unlawful operation constitutes a separate violation.

**Sec. 16.7.130. Civil action.** (Sec. 16.10.130)

In the event that any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or in the event that any land is or is proposed to be used in violation of any provision of this article or the conditions and requirements of the ~~use by special review~~ ~~special-use~~ ~~permit~~~~approval~~, the Town, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

## Article 7 – Wireless Telecommunication Services and Facilities (Chapter 16, Article 10)

### Sec. 16.7.10. Reserved. (Sec. 16.10.10)

### Sec. 16.7.20. Use permitted by special review. (Sec. 16.10.20)

It is unlawful for any person to install or operate a wireless telecommunication service facility unless a use by special review has first been approved by the Town Council, as provided in Article 2, Chapter 16 of this Code. The approval of such use by special review does not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, state and federal governments.

### Sec. 16.7.30. Application requirements. (Sec. 16.10.30)

- (a) Site plans. The site plans for a wireless telecommunication service facility shall be submitted on one (1) or more plats or maps at a scale not less than 1" = 50', showing the following information:
1. Proposed size, location and boundaries of the commercial mobile radio service facility site, including existing and proposed topography at two (2)-foot intervals, referenced to USGS data, state plane coordinates and a legal description of the proposed site.
  2. Elevations of all towers and equipment, indicating materials, overall exterior dimensions and colors.
  3. True north arrow.
  4. Locations and size of existing improvements and existing vegetation, if any, and location and size of proposed improvements, including any landscaping.
  5. Existing utility easements and other rights-of-way of record, if any.
  6. Location of access roads.
  7. Names of abutting subdivisions or the names of owners of abutting, unplatted property within five hundred (500) feet of the site, zoning and uses of adjacent parcels.
  8. Proof of ownership in a form acceptable to the Town.
- (b) Vicinity maps. The vicinity maps submitted with an application under this article shall include one (1) or more maps showing the location of existing and planned commercial mobile radio service facilities belonging to the applicant that are within five (5) miles of the proposed facility. Planned facilities may be identified in general terms and need not be addressed specifically.
- (c) Written narrative. The application shall include the following in narrative form:
1. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable.
  2. An explanation of the need for such a facility, operating Plan and proposed coverage area.

3. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one (1)-mile radius of the facility.
4. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC).
5. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields.
6. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts.
7. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town's GMA and its residents.
8. Affirmation that, if approved, the applicant and surface owner will make the facility available on a reasonable basis to other service providers.
9. An explanation of compatibility with the Comprehensive Plan.

**Sec. 16.7.40. Review criteria.** ([Sec. 16.10.40](#))

- (a) The recommendation of the Planning Commission and the decision of the Town Council shall be based on whether the applicant has demonstrated that the proposed wireless telecommunication service facility meets the following standards:
  1. The site Plan complies with the foregoing requirements.
  2. The vicinity map complies with the foregoing requirements.
  3. The narrative for the application complies with the foregoing requirements.
  4. When applicable, complies with the setback and height requirements.
  5. When applicable, complies with the accessory building requirements.
  6. When applicable, complies with special review mitigation co-location requirements as set forth in Section 16.7.90 of this article.
- (b) The review criteria shall be included in the ordinance granting approval of the special use.

**Sec. 16.7.50. Height and setback requirements.** ([Sec. 16.10.50](#))

The following shall apply:

- (a) Roof-mounted or building-mounted commercial mobile radio service facilities, including antennae, may not protrude above the parapet line of the building or structure nor more than eighteen (18) inches outside of the building wall, unless sufficient screening or other camouflage methods are demonstrated and accepted as part of the approval.
- (b) Applicable zoning setback requirements of this article must be met. At a minimum, all freestanding facilities shall be set back at least five hundred (500) feet from all residentially zoned properties or residential structures on properties otherwise zoned.

**Sec. 16.7.60. Accessory building requirements.** *(Sec. 16.10.60)*

- (a) Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low-maintenance materials and must be architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area that are visible from a public right-of-way or residentially zoned or used area must enclose the equipment in accessory structures acceptable to the Town.
- (b) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.

**Sec. 16.7.70. Building-mounted or roof-mounted facilities.** *(Sec. 16.10.70)*

Building-mounted or roof-mounted facilities shall be screened from public view, either by screening, location or other techniques deemed sufficient.

**Sec. 16.7.80. Freestanding wireless telecommunication service facilities requirements.** *(Sec. 16.10.80)*

All freestanding wireless telecommunication facilities shall be designed and constructed in such a manner that they are:

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

**Sec. 16.7.90. Special review mitigation measures for co-location.** *(Sec. 16.10.90)*

- (a) Unless demonstrated to be impractical, the Town shall require co-location of wireless telecommunication service facilities to minimize the number of sites.

- (b) No wireless telecommunication service facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by special review or site development Plan.

**Sec. 16.7.100. Application fees.** *(Sec. 16.10.100)*

Each applicant shall submit a land use application (example available upon request from Town Staff) and pay applicable fees based on the current fee schedule. No approval will be issued until all fees are paid.

**Sec. 16.7.110. Abandonment.** *(Sec. 16.10.110)*

At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.

**Sec. 16.7.120. Penalty.** *(Sec. 16.10.120)*

Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunication service facility in violation of any provision of this article or the conditions and requirements of the use by special review approval, may be punished as provided in Article 1, Chapter 16 of this Code. Each day of unlawful operation constitutes a separate violation.

**Sec. 16.7.130. Civil action.** *(Sec. 16.10.130)*

In the event that any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or in the event that any land is or is proposed to be used in violation of any provision of this article or the conditions and requirements of the use by special review approval, the Town, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

## Article 8 – Oil and Gas Drilling and Production Facilities (*Chapter 16, Article 11*)

### Sec. 16.8.10. Purpose. (*Sec. 16.11.10*)

- (a) These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the present and future residents of the Town. By enacting these regulations, the Town' intends to facilitate the development of oil and gas resources within the Town while mitigating potential land use conflicts between such development and existing and planned land uses.
- (b) It is recognized that, under state law, the surface and mineral estates are separate and distinct interests in land and that one (1) may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements.
- (c) The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources and the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner.
- (a)(d) Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

### Sec. 16.8.20. Definitions. (*Sec. 16.11.20*)

All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning, and all words that are of a technical nature or peculiar to the oil and gas industry shall be given the meaning that is generally accepted in the oil and gas industry. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings:

- *Act* means the Oil and Gas Conservation Act of the state.
- *Commission* or *OGCC ECMC* means the ~~Oil and Gas Conservation Commission of the state~~ **Colorado Energy and Carbon Management Commission**.
- *Day* means a period of twenty-four (24) consecutive hours.

- *Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal, pursuant to authorizations granted by the Commission.
- *Inspector* means any person designated by the Town or the Town's designee, who shall have the authority to inspect well sites to determine compliance with this article and other applicable ordinances of the Town.
- *Management Plan* refers to the required ~~conditional use~~ use by special review site plan submittal item addressing specific aspects of the oil and gas operation.
- *Oil and gas well* means any hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.
- *Operating Plan* means a general description of a well site or production site identifying purpose, use, typical ~~Staffing~~ staffing, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure and any other information related to regular functioning of that facility.
- *Operator* means the person designated by the working interest owners as operator and named in Commission Form 2 or a subsequently filed Commission Form 10.
- *Owner* means a person possessing a mineral interest or a leasehold interest in minerals.
- *Production site* means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.
- *Reclamation and Landscape Plan* refers to the required submittal items illustrating long-term plans for site treatments and function. See Section 16.8.40 for a full definition
- *Reentering* means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.
- *Sidetracking* means entering the same well head from the surface but not necessarily following the same well bore throughout its subsurface extent when operational deviation from such well bore is necessary to reach the objective depth because of an engineering problem.
- *Twinning* means the drilling of a well within a radius of fifty (50) feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.
- *Use tax* means the tax paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the Town.
- *Well* means an oil and gas well or an injection well.
- *Well site* means that area surrounding a proposed or existing well and accessory structures and equipment necessary for drilling, completion, recompletion, work-over, development and production activities.

- *Wellhead* means the equipment attaching the surface equipment to the well bore equipment at the well.

**Sec. 16.8.30. Requirements and procedures.** (Sec. 16.11.30)

- (a) Proposed new wells, redrilling certain wells and other specific enhancements.
1. It shall be unlawful for any person to drill a well that has not been previously ~~permitted approved~~ under this article, reactivate a plugged or abandoned well or perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled), unless a ~~use by special review approval~~~~conditional-use permit~~ has first been granted by the Town in accordance with the procedures defined in this ~~article~~~~Article and Article 2~~.
  2. The granting of such ~~conditional-use permit~~~~use by special review~~ shall not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, the state, and the United States.
  3. When a ~~conditional-use permit~~~~use by special review~~ has been granted for a well, reentry of such well for purposes of sidetracking, twinning, deepening, recompleting or reworking shall not require a separate ~~conditional-use permit~~~~use by special review approval~~.
  4. The ~~conditional-use permit~~~~use by special review~~ is limited to the current proposed facilities as shown in the approved plan. After initial completion of a well, to place additional equipment on a tank battery or wellhead location that was not shown in the approved plan, the applicant must notify the Town of installation of such additional equipment, except in a situation where additional equipment is necessary for a period of fourteen (14) days or less.
  5. Within thirty (30) days after completion of operations, the applicant shall provide to the Town "as-built" drawings that show all facilities, pipelines, flow lines and gathering lines that the applicant has placed on the land subject to this ~~permit~~~~process~~.
- (b) Right of entry. For the purpose of implementing and enforcing this article, duly authorized Town personnel or contractors may enter onto the subject property upon notification of the operator, ~~permittee~~~~applicant~~, lessee or other party holding a legal interest in the property. If entry is denied, the Town shall have the authority to discontinue application processing, revoke ~~approved permits~~~~approvals~~ and applications or obtain an order from a court to obtain entry.
- (c) Inspection. The operator or applicant shall provide the telephone number of a contact person who may be reached twenty-four (24) hours a day, seven (7) days a week for purposes of being notified of any proposed Town inspection under this section or in case of emergency. Any ~~permitted approved~~ oil and gas operations and facilities may be inspected by the Town at any time to ensure compliance with the requirements of the ~~approved permit~~~~approval~~, provided that at least one (1) hour's prior notice is given to the contact person at the telephone number

supplied by the operator or applicant. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one (1) hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer. By accepting the Town's ~~approved-use by special review approval~~~~conditional-use permit~~, the operator or applicant consents to such inspections. The cost of any Town inspection deemed reasonable and necessary to implement or enforce this article shall be borne by the operator or applicant.

(d) Use tax. All operators must conform to applicable provisions of this Code and the municipal Code relating to taxation.

(e) Application fee. A nonrefundable fee in the amount set in the current Town fee schedule shall accompany the application.

**Sec. 16.8.40. Application elements. (Sec. 16.11.40)**

An application for a ~~use by special review~~~~conditional-use permit~~ pursuant to Article 2 and the supplemental requirements of this aArticle shall be filed with the Town Clerk~~Town~~ and shall include the following information:

(a) Application requirements, site plan. The site plans for a well site submitted with an application for a use by ~~conditional~~~~special~~ review shall be submitted on one (1) or more plats or maps, at a scale not less than 1" = 50', showing the following information:

1. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within six hundred sixty (660) feet of the well site shall be shown.
2. The location of layout, including, without limitation, the position of the drilling equipment and related facilities and structures including appropriate sound walls to be installed throughout drilling process. Sound wall determination will be based on a sound study provided by the applicant and reviewed by ~~Staff~~the Town.
3. True north arrow.
4. Existing improvements, if any, within a radius of six hundred sixty (660) feet of the proposed well.
5. Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty (660) feet of the proposed well.
6. Existing irrigation or drainage ditches within six hundred sixty (660) feet of the well site or production site, if any.
7. Existing FEMA one hundred (100)-year floodplains or floodway within six hundred sixty (660) feet of the well site or production site, if any.

**Commented [JO1]:** Mary Lynn - please double check radius requirements below and throughout per statute or other State rules.

8. The applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.
  9. Location of access roads.
  10. Well site or production site and existing lease boundaries.
  11. The names of abutting subdivisions or the names of owners of abutting, unplatted property within six hundred sixty (660) feet of the well site or production site.
  12. The name and address of the operator and the name of the person preparing the site plan or map.
- (b) Application requirements, vicinity maps. The vicinity maps for a well site or production site submitted with an application for a use permitted by conditional review by special review shall be submitted on one (1) or more plats or maps showing the following information:
1. Location of all existing water bodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5-minute series or assessor base maps that indicate topographic detail and show all existing water bodies and watercourses with a physically defined channel within a four hundred (400)-foot radius of the proposed well.
  2. Location of existing oil and gas wells as reflected in OGCECMC records. This information shall be submitted on a map and shall include all wells within a one thousand (1,000)-foot radius of the proposed location for the well.
  3. Location of drill site. The information to be submitted shall be OGCECMC Form 2 and shall include the parcel tax identification number.
- (c) Application requirement, narrative. In addition to the site plans and the vicinity maps required in Paragraphs (1) and (2) above subsection (b) of this Section, the application shall include the following elements called out with clearly delineated headers or sections:
1. The operator's and surface owner's names and addresses, copies of any required OGCECMC Form 2 and designation of agent, if applicable.
  2. An operating plan.
  3. Landscape and Reclamation Plan. All applications for a conditional use permit use by special review to construct, drill and operate any oil and gas operations within the jurisdiction of the Town shall include a reclamation and landscape plan ("plan") for the area used for production after drilling, fracking, finishing and the installation of tanks, separators, pipelines, compressors, pump-jacks or other equipment used for production on the site ("pad site"). Such plan shall show fencing, berming, screening, landscaping, and access roadways, along with other improvements necessary to screen and buffer the Pad-pad Site-site from surrounding properties.
    - a. Any Pad-pad Sitesite, or a portion of a pad site that is located within two hundred feet (200') of a public roadway shall require berming, irrigated landscaping with trees (one and one-half inch (1.5") caliper, deciduous; six foot (6') tall conifer, minimum), clustered and/or spaced thirty feet (30') OC, fencing and/or other improvements that adequately screen the view from the

roadway, mitigate sound and add aesthetic elements consistent with surrounding properties or approved development concept plans within the Town. These improvements shall run the entire length of any roadway facing side and shall extend a minimum of fifty feet (50') outside the boundary of the ~~Pad-pad Sitesite~~.

- b. ~~Pad Sites-sites~~ located farther than two hundred feet (200') from any roadway or sides of Pad Sites that are within two hundred feet (200') but do not face a roadway shall be fenced with solid metal or wood fencing that is a minimum of six feet (6') high on all perimeter boundary lines of the ~~Pad-pad Sitesite~~. The area outside the ~~Pad-pad Site-site~~ shall be ~~Planted-planted~~ with drought-tolerant grasses. ~~Weed-Weed~~-free hay or straw mulch shall be crimped into the soil.
  - c. All fencing and/or landscaping shall be included in an overall reclamation and landscape plan submitted with any ~~conditional-use-permit~~ use by special review application. The plan must show both short- and long-term production components and their relationship to the surrounding landscape and must accurately represent the information requested in the management plan. Landscaping, fencing, irrigation, and seeding shall be warranted for a minimum of one (1) year, and as a part of the management plan, the applicant will include a long-term plan for maintenance of these components.
4. A list of all permits or approvals obtained or yet to be obtained from local, state, or federal agencies other than the ~~OGCCECMC~~.
  5. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.
  6. A plan for weed control at the well site.
  7. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the Town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.
  8. Sanitary facilities must comply with ~~Section 602(f) of the OGCCECMC~~ regulations.
  9. Completed management plan that thoroughly addresses all elements listed as follows and on the land use application. These items should be called out with headers in the document and shall include timelines of installation, removal, or impact, if applicable:
    - a. Enumerate the components of the well site.
    - b. Define the layout of the oil and gas components in this development.
    - c. Define clearly how the proposed oil and gas development interfaces with the following:
      - (1) The Comprehensive Plan (all sections).
      - (2) Land use.
      - (3) The zoning district.

- (4) Connectivity.
- (5) Density.
- (6) Open space.
- d. Define the proposed access for this oil and gas development as follows:
  - (1) Define the treatments that will be applied to the roadways on the perimeter and internal to the site.
  - (2) Define how the oil and gas site functions with the proposed access(s).
  - (3) Define what improvements will be made to the streetscape (if applicable).
  - (4) Define how entries to the oil and gas development are enhanced.
- e. Define the setbacks proposed for these facilities both during initial operation and long term.
- f. Define the fencing plan for the oil and gas development, both during drilling and long term.
- g. Define how the oil and gas improvements will be managed.
- h. Define the planned truck routes and how the oil and gas traffic will affect Severance transportation.
- i. Define how the landscape design will be achieved.
- j. Define the irrigation system and explain sources of water.
- k. Explain how stormwater will be managed.
- l. Explain how the landscape will be maintained.
- m. Explain how parking will be addressed.
- n. Explain how exterior lighting will be addressed.
- o. Enumerate the potential impact on adjacent neighborhoods.
- p. If noise or smells are associated with the development, define the plans for mitigation.

**Sec. 16.8.50. Review criteria.** (*Sec. 16.11.50*)

- (a) The Town Council shall approve an application for a use ~~permitted by conditional review~~ by special review for a well site if the application conforms to the following requirements:
  - 1. The site plans for a well site application comply with the requirements of ~~Paragraph 16.11.40(1) above~~ this Article.
  - 2. The vicinity maps for a well site application comply with the requirements of ~~Paragraph 16.11.40(2) above~~ this Article.
  - 3. The narrative for a well site application complies with the requirements of ~~Paragraph 16.11.40(3) above~~ this Article.
  - 4. When applicable, complies with the provisions for geologic hazards, floodplains or floodway required in Section 16.8.100 of this Article.
  - 5. When applicable, complies with the provisions for wildlife mitigation procedures required in Section 16.8.130 of this Article.

- (b) Town Council public hearing and action. The Town Council shall review and act on the recommendation of the Planning Commission regarding the ~~conditional use~~ use by special review site plan as a regular agenda item. The Town Council may choose to approve, approve with conditions, or take no action on the ~~conditional use~~ use by special review site plan. The standard appeal process will apply to any applicant dispute with the final action. This process is described in **Article 2, Chapter 16** of this Code.

**Sec. 16.8.60. Notice to proceed.** (Sec. 16.11.60)

Prior to commencement of operations for which a use ~~permitted by conditional~~ by special review has been approved, a "Notice to Proceed" shall be obtained from the Town ~~Clerk~~. The Town ~~Clerk~~ shall issue the "Notice to Proceed" upon receipt of the following:

- (a) A copy of the resolution approving a use ~~permitted by conditional~~ special review for a well or wells
- (b) A copy of the approved site plan
- (c) A copy of an approved extra-legal vehicle or load permit issued by the Town ~~Clerk~~ pursuant to this Code, if applicable
- (d) Copies of any necessary state or federal permits issued for the operation, if not previously submitted

**Sec. 16.8.70. Building permit.** (Sec. 16.11.70)

Building permits must be obtained for all aboveground structures to which the International Building Code applies.

**Sec. 16.8.80. Development setbacks from wells and facilities.** (Sec. 16.11.80)

- (a) When wells are existing, buildings shall not be constructed within the following distances:
  - 1. Buildings not necessary to the operation of the well shall not be constructed within ~~three hundred and fifty (350) feet~~ of any such well and/or facility.
  - 2. Buildings to be used as places of assembly, institutions or schools shall not be constructed within five hundred (500) feet of any well and/or facility.
- (b) When wells are existing, lots and roads shall not be platted within the following distances:
  - 1. Lots shall not be platted within three hundred and fifty (350) feet of an existing oil or gas well or its production facilities.

**Commented [JO2]:** Mary Lynn to check.

**Commented [AS3R2]:** The local government gets to choose the setback from a well for new development. The state gets to choose how close a well can go to an existing development.

2. Lots intended to be used as places of assembly, institutions or schools shall not be platted to allow a building site within five hundred (500) feet of an existing oil or gas well or its production facilities.
3. Streets shall not be platted within one hundred and fifty (150) feet of an existing oil or gas well or its production facilities, provided that streets may cross collection flowlines at right angles.
4. Lots shall not be platted within fifty (50) feet of well and production sites that have been plugged, abandoned, and reclaimed. Such platting shall only occur after the completion of the plugging, abandonment, and reclamation process. Plugged and abandoned wells shall be platted in their own separate non-buildable tract with adequate access.
5. Plugged and abandoned wells that are not visible shall be exposed, with the facility owner's permission, and their exact location shall be surveyed by a professional land surveyor. The plugged and abandoned well shall be backfilled and compacted. The location of the plugged and abandoned well shall be permanently marked with a visible post indicating the ~~OGCCECMC well~~ ~~ECMC~~ and American Petroleum Institute (API) well number.
6. Oil and gas pipelines shall be located within a minimum ~~thirty (30') foot~~ ~~thirty-foot-wide (30') wide~~ non-buildable tract ~~or easement~~ and no closer than fifty (50) feet to an occupied structure. The oil and gas pipeline shall be centered in the tract and in no case less than ten (10) feet from the edge of the tract. Oil and gas pipelines shall not be placed within public right-of-way, other public lands and/or lots intended for future development. This requirement does not apply to natural gas pipelines that provide retail service.

**Sec. 16.8.90. Compliance with state environmental requirements. (Sec. 16.11.90)**

The approval of an oil and gas ~~conditional use permit~~ ~~use by special review~~ shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal. Additionally, applicant must adhere to all Town of Severance fugitive dust requirements.

**Sec. 16.8.100. Geologic hazard, floodplain, floodway location restrictions. (Sec. 16.11.100)**

All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement, or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

**Sec. 16.8.110. Access roads. (Sec. 16.11.110)**

All private roads used to maintain access to the tank batteries, or the well site shall be improved and maintained according to the following standards:

- (a) Tank battery access roads. Access roads to tank batteries shall be subject to review by the Town Engineering accordance with the following minimum standards:
1. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of eight (8) inches thick. Subgrade section shall be scarified a minimum depth of nine (9) inches, moisture conditioned to within +/- two percent (2%) of the material's optimum moisture content as determined by ASTM Specification D698 and compacted to at least ninety-five percent (95%) of the material's maximum dry density as determined by the standard Proctor test. The aggregate material, at a minimum, shall meet the requirements for Class 5 or 6, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest edition. Additional requirements may be imposed dependent on the type and frequency of vehicles using the access roads.
  2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks, and the like) by means of an adequate culvert pipe (adequacy of pipe subject to approval by the Town Engineer)
  3. Maintained so as to provide a passable roadway free of ruts at all times
- (b) Wellhead access roads. Access roads to wellheads shall be subject to review by the Town Engineer accordance with the following minimum standards:
1. A graded, dirt roadway shall be scarified a minimum depth of nine (9) inches, moisture conditioned to within +/- two percent (2%) of the material's optimum moisture content as determined by ASTM Specification D698 and compacted to at least ninety-five percent (95%) of the material's maximum dry density as determined by the standard Proctor test. Additional requirements may be imposed dependent on the type and frequency of vehicles using the access roads.
  2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways by means of an adequate culvert pipe (adequacy of pipe subject to approval by the Town Engineer)
  3. Maintained so as to provide a passable roadway generally free of ruts
- (c) Public access roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads that use Town streets, as defined in Sections 42-4-401 through 42-4-414, CRS. Said permit, if required, shall be obtained from the Town ~~Clerk~~ prior to such use. The applicant shall comply with all Town and state regulations regarding weight limitations on streets within the Town, and the applicant shall minimize extra-legal truck traffic on streets within the Town.

**Sec. 16.8.120. Public roads impact.** *(Sec. 16.11.120)*

- (a) Every permit issued by the Town shall require the applicant or operator to pay a fee that is sufficient to pay the estimated cost for all impacts that the proposed operation may cause to

facilities owned or operated by the Town or used by the general public, including but not limited to:

1. Repair and maintenance of roads.
  2. Bridges and other transportation infrastructure.
  3. Improvements made or to be made by the Town to accommodate the operations and to protect public health, safety, and welfare.
  4. Costs incurred to process and analyze the application, including the reasonable expenses paid to independent experts or consultants.
- (b) The Town shall establish a mechanism to assess and obtain payment of such fees, subject to the right of the Town to request additional funds if the fees prove to be insufficient or to refund surplus funds to the operator if the fees paid exceed the true cost of the impacts.
- (c) The Town may further require that the applicant or operator or both post a bond in an amount to be set during the site plan phase as security in the event that additional damages occur to facilities owned or operated by the Town or used by the general public.
- (d) As a condition of issuance of the permit and on an as-needed basis, the Town may require that additional site-specific measures be undertaken by the applicant or operator in order to protect and preserve facilities owned or operated by the Town or used by the general public.
- (e) Applicant or operator shall provide tracking pad at any point of access to public right-of-way.
- (f) Applicant or operator is responsible for any damage to the public roads adjacent to proposed access. Public works department will inspect access upon completion and monitor throughout its use.

**Sec. 16.8.130. Wildlife impact mitigation.** (Sec. 16.11.130)

Based on Colorado House Bill HB07-1298, applicant will be required to conform with any regulations of the Colorado Wildlife Commission regarding any wildlife impacts that are a direct result of the proposed well site.

Commented [JO4]: Mary Lynn - relevant or new?

**Sec. 16.8.140. Emergency response costs.** (Sec. 16.11.140)

The operator shall reimburse the Town or the responsible fire district for any emergency response costs incurred by the Town or the responsible fire district in connection with activity at the well site or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by a mistake of the Town.

**Sec. 16.8.150. Violation and enforcement.** (Sec. 16.11.150)

- (a) Unlawful to construct or install unapproved oil and gas facilities. Except as otherwise provided in this article, it is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the Town unless approval has been granted by the Town Council. The unlawful drilling or re-drilling of any well or the production therefrom is a violation of this article.
- (b) Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses or causes to be constructed, installed or used any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this article or the conditions and requirements of the oil and gas ~~conditional-use permit~~use by special review approval may be punished by a fine of not more than one thousand dollars (\$1,000.00). Each day of such unlawful operation constitutes a separate violation.
1. Suspension of ~~permit approval~~. If the Town determines at any time that there is a violation of the conditions of the ~~conditional-use permit~~use by special review approval or that there are material changes in an oil and gas operation or facility as approved ~~by the permit~~, the Town may, for good cause, temporarily suspend the ~~conditional-use permit~~use by special review approval. In such cases, upon oral or written notification by the Town, the operator shall cease operations immediately. The Town shall provide the operator with written notice of the violation or identification of the changed conditions. The operator shall have a maximum of fifteen (15) days to correct the violation. If the violation is not timely corrected, the ~~permit approval~~ may be further suspended pending a revocation hearing. The operator may request an immediate hearing regarding the suspension before the Town Council or committee, which shall hold the hearing within ten (10) days of the operator's written request.
  2. Revocation of ~~permit approval~~. The Town Council or committee may, following notice and hearing, revoke a Town-approved ~~conditional-use permit~~use by special review granted pursuant to this article if any of the activities conducted by the operator violate the conditions of the ~~permit approval~~ or this article or constitute material changes in the oil and gas operation approved by the Town. The Town shall provide to the operator written notice of the violation or the material changes and the time and date of the hearing. No less than thirty (30) days prior to the revocation hearing, the Town shall provide to the ~~permit holder applicant and operator~~ written notice setting forth the violation and the time and date of the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days prior to the hearing. Following the hearing, the Town may revoke the ~~permit approval~~ or specify a time by which action shall be taken to correct any violations of the ~~permit approval~~ to avoid revocation.
  3. Transfer of ~~permit approval~~. A ~~use by special review approval conditional-use permit~~ may be transferred only with the written consent of the Town.

**Commented [J05]:** Mary Lynn - double check and possibly change the language to align with general penalty verbiage.

4. Judicial review. Any action seeking judicial review of a final administrative decision of the Town shall be initiated within ~~thirty-two~~thirty-two (3028) days after the decision was made.
- (c) Civil action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this article or the conditions and requirements of the oil and gas ~~conditional-use permit~~use by special review approval, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.
- (d) False or inaccurate information. The Town Council may revoke an oil and gas ~~conditional-use permit~~use by special review approval if it is determined, after an administrative hearing held on at least ten (10) days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based and which the applicant, its agents, servants or employees knew or reasonably should have known was materially false, misleading, deceptive or inaccurate.
- (e) Prospective application. Unless specifically provided otherwise, this article shall apply only to wells that are drilled in the Town on and after the date that this article is adopted. The reentering of a well in existence prior to the date of adoption of this article for purposes of deepening, recompleting, or reworking shall not require approval of a use ~~permitted~~permitted by ~~conditional-special~~conditional-special review.
- (f) Recovery of fees. Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of this article, the Town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorneys' fees incurred in addition to any other penalties or remedies that may be available.

## Article 8 – Oil and Gas Drilling and Production Facilities (*Chapter 16, Article 11*)

### Sec. 16.8.10. Purpose. (*Sec. 16.11.10*)

- (a) These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the present and future residents of the Town. By enacting these regulations, the Town' intends to facilitate the development of oil and gas resources within the Town while mitigating potential land use conflicts between such development and existing and planned land uses.
- (b) It is recognized that, under state law, the surface and mineral estates are separate and distinct interests in land and that one (1) may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of these regulations and any applicable statutory and regulatory requirements.
- (c) The state has a recognized interest in fostering the efficient development, production and utilization of oil and gas resources and the prevention of waste and protection of the correlative rights of common source owners and producers to a fair and equitable share of production profits. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner.
- (d) Municipal governments have a recognized, traditional authority and responsibility to regulate land use within their jurisdiction. These regulations are intended as an exercise of this land use authority.

### Sec. 16.8.20. Definitions. (*Sec. 16.11.20*)

All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning, and all words that are of a technical nature or peculiar to the oil and gas industry shall be given the meaning that is generally accepted in the oil and gas industry. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings:

- *Act* means the Oil and Gas Conservation Act of the state.
- *Commission* or *ECMC* means the Colorado Energy and Carbon Management Commission.
- *Day* means a period of twenty-four (24) consecutive hours.

- *Injection well* means any hole drilled into the earth into which fluids are injected for the purposes of secondary recovery, storage, or disposal, pursuant to authorizations granted by the Commission.
- *Inspector* means any person designated by the Town or the Town's designee, who shall have the authority to inspect well sites to determine compliance with this article and other applicable ordinances of the Town.
- *Management Plan* refers to the required use by special review site plan submittal item addressing specific aspects of the oil and gas operation.
- *Oil and gas well* means any hole drilled into the earth for the purpose of exploring for or extracting oil, gas, or other hydrocarbon substances.
- *Operating Plan* means a general description of a well site or production site identifying purpose, use, typical staffing, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure and any other information related to regular functioning of that facility.
- *Operator* means the person designated by the working interest owners as operator and named in Commission Form 2 or a subsequently filed Commission Form 10.
- *Owner* means a person possessing a mineral interest or a leasehold interest in minerals.
- *Production site* means the area surrounding proposed or existing production pits or other accessory equipment required for oil and gas production, at which may also be located tanks and tank batteries, exclusive of transmission and gathering pipelines.
- *Reclamation and Landscape Plan* refers to the required submittal items illustrating long-term plans for site treatments and function. See Section 16.8.40 for a full definition
- *Reentering* means accessing an existing well bore for either the original or amended purpose, provided that such well has not been abandoned.
- *Sidetracking* means entering the same well head from the surface but not necessarily following the same well bore throughout its subsurface extent when operational deviation from such well bore is necessary to reach the objective depth because of an engineering problem.
- *Twinning* means the drilling of a well within a radius of fifty (50) feet from an existing well bore when the well cannot be drilled to the objective depth or produced because of an engineering problem, such as a collapsed casing or formation damage.
- *Use tax* means the tax paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the Town.
- *Well* means an oil and gas well or an injection well.
- *Well site* means that area surrounding a proposed or existing well and accessory structures and equipment necessary for drilling, completion, recompletion, work-over, development and production activities.

- *Wellhead* means the equipment attaching the surface equipment to the well bore equipment at the well.

**Sec. 16.8.30. Requirements and procedures. (Sec. 16.11.30)**

- (a) Proposed new wells, redrilling certain wells and other specific enhancements.
1. It shall be unlawful for any person to drill a well that has not been previously approved under this article, reactivate a plugged or abandoned well or perform initial installation of accessory equipment or pumping systems (in cases where a well is not being drilled), unless a use by special review approval has first been granted by the Town in accordance with the procedures defined in this Article and Article 2.
  2. The granting of such use by special review shall not relieve the operator from otherwise complying with all applicable regulatory requirements of the Town, the state, and the United States.
  3. When a use by special review has been granted for a well, reentry of such well for purposes of sidetracking, twinning, deepening, recompleting or reworking shall not require a separate use by special review approval.
  4. The use by special review is limited to the current proposed facilities as shown in the approved plan. After initial completion of a well, to place additional equipment on a tank battery or wellhead location that was not shown in the approved plan, the applicant must notify the Town of installation of such additional equipment, except in a situation where additional equipment is necessary for a period of fourteen (14) days or less.
  5. Within thirty (30) days after completion of operations, the applicant shall provide to the Town "as-built" drawings that show all facilities, pipelines, flow lines and gathering lines that the applicant has placed on the land subject to this process.
- (b) Right of entry. For the purpose of implementing and enforcing this article, duly authorized Town personnel or contractors may enter onto the subject property upon notification of the operator, applicant, lessee or other party holding a legal interest in the property. If entry is denied, the Town shall have the authority to discontinue application processing, revoke approvals and applications or obtain an order from a court to obtain entry.
- (c) Inspection. The operator or applicant shall provide the telephone number of a contact person who may be reached twenty-four (24) hours a day, seven (7) days a week for purposes of being notified of any proposed Town inspection under this section or in case of emergency. Any approved oil and gas operations and facilities may be inspected by the Town at any time to ensure compliance with the requirements of the approval, provided that at least one (1) hour's prior notice is given to the contact person at the telephone number supplied by the operator or applicant. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) at least one (1) hour in advance of the proposed inspection shall

constitute sufficient prior notice if the contact person does not answer. By accepting the Town's use by special review approval, the operator or applicant consents to such inspections. The cost of any Town inspection deemed reasonable and necessary to implement or enforce this article shall be borne by the operator or applicant.

(d) Use tax. All operators must conform to applicable provisions of this Code and the municipal Code relating to taxation.

(e) Application fee. A nonrefundable fee in the amount set in the current Town fee schedule shall accompany the application.

**Sec. 16.8.40. Application elements. (Sec. 16.11.40)**

An application for a use by special review pursuant to Article 2 and the supplemental requirements of this Article shall be filed with the Town and shall include the following information:

- (a) Application requirements, site plan. The site plans for a well site submitted with an application for a use by special review shall be submitted on one (1) or more plats or maps, at a scale not less than 1" = 50', showing the following information:
1. The proposed location of production site facilities or well site facilities associated with the well in the event production is established, if applicable. Future development of the resource shall be considered in the location of the tank battery. Existing tank batteries and transmission and gathering lines within six hundred sixty (660) feet of the well site shall be shown.
  2. The location of layout, including, without limitation, the position of the drilling equipment and related facilities and structures including appropriate sound walls to be installed throughout drilling process. Sound wall determination will be based on a sound study provided by the applicant and reviewed by the Town.
  3. True north arrow.
  4. Existing improvements, if any, within a radius of six hundred sixty (660) feet of the proposed well.
  5. Existing utility easements and other rights-of-way of record, if any, within a radius of six hundred sixty (660) feet of the proposed well.
  6. Existing irrigation or drainage ditches within six hundred sixty (660) feet of the well site or production site, if any.
  7. Existing FEMA one hundred (100)-year floodplains or floodway within six hundred sixty (660) feet of the well site or production site, if any.
  8. The applicant's drainage and erosion control plans for the well site or production site and the area immediately adjacent to such site, if applicable.
  9. Location of access roads.
  10. Well site or production site and existing lease boundaries.

11. The names of abutting subdivisions or the names of owners of abutting, unplatted property within six hundred sixty (660) feet of the well site or production site.
  12. The name and address of the operator and the name of the person preparing the site plan or map.
- (b) Application requirements, vicinity maps. The vicinity maps for a well site or production site submitted with an application for a use by special review shall be submitted on one (1) or more plats or maps showing the following information:
1. Location of all existing water bodies and watercourses, including direction of water flow. This information shall be submitted on USGS 7.5-minute series or assessor base maps that indicate topographic detail and show all existing water bodies and watercourses with a physically defined channel within a four hundred (400)-foot radius of the proposed well.
  2. Location of existing oil and gas wells as reflected in ECMC records. This information shall be submitted on a map and shall include all wells within a one thousand (1,000)-foot radius of the proposed location for the well.
  3. Location of drill site. The information to be submitted shall be ECMC Form 2 and shall include the parcel tax identification number.
- (c) Application requirement, narrative. In addition to the site plans and the vicinity maps required in subsection (b) of this Section, the application shall include the following elements called out with clearly delineated headers or sections:
1. The operator's and surface owner's names and addresses, copies of any required ECMC Form 2 and designation of agent, if applicable.
  2. An operating plan.
  3. Landscape and Reclamation Plan. All applications for a use by special review to construct, drill and operate any oil and gas operations within the jurisdiction of the Town shall include a reclamation and landscape plan ("plan") for the area used for production after drilling, fracking, finishing and the installation of tanks, separators, pipelines, compressors, pump-jacks or other equipment used for production on the site ("pad site"). Such plan shall show fencing, berming, screening, landscaping, and access roadways, along with other improvements necessary to screen and buffer the pad site from surrounding properties.
    - a. Any pad site, or a portion of a pad site that is located within two hundred feet (200') of a public roadway shall require berming, irrigated landscaping with trees (one and one-half inch (1.5") caliper, deciduous; six foot (6') tall conifer, minimum), clustered and/or spaced thirty feet (30') OC, fencing and/or other improvements that adequately screen the view from the roadway, mitigate sound and add aesthetic elements consistent with surrounding properties or approved development concept plans within the Town. These improvements shall run the entire length of any roadway facing side and shall extend a minimum of fifty feet (50') outside the boundary of the pad site.

- b. Pad sites located farther than two hundred feet (200') from any roadway or sides of Pad Sites that are within two hundred feet (200') but do not face a roadway shall be fenced with solid metal or wood fencing that is a minimum of six feet (6') high on all perimeter boundary lines of the pad site. The area outside the pad site shall be planted with drought-tolerant grasses. Weed-free hay or straw mulch shall be crimped into the soil.
  - c. All fencing and/or landscaping shall be included in an overall reclamation and landscape plan submitted with any use by special review application. The plan must show both short- and long-term production components and their relationship to the surrounding landscape and must accurately represent the information requested in the management plan. Landscaping, fencing, irrigation, and seeding shall be warranted for a minimum of one (1) year, and as a part of the management plan, the applicant will include a long-term plan for maintenance of these components.
- 4. A list of all permits or approvals obtained or yet to be obtained from local, state, or federal agencies other than the ECMC.
  - 5. An emergency response plan that is mutually acceptable to the operator and the appropriate fire district that includes a list of local telephone numbers of public and private entities and individuals to be notified in the event of an emergency, the location of the well and provisions for access by emergency response entities.
  - 6. A plan for weed control at the well site.
  - 7. A fire protection plan that is mutually acceptable to the operator and the appropriate fire district that includes planned actions for possible emergency events and any other pertinent information. Prior to application to the Town, a proposed fire protection plan and emergency response plan shall be submitted to and reviewed by the fire district.
  - 8. Sanitary facilities must comply with ECMC regulations.
  - 9. Completed management plan that thoroughly addresses all elements listed as follows and on the land use application. These items should be called out with headers in the document and shall include timelines of installation, removal, or impact, if applicable:
    - a. Enumerate the components of the well site.
    - b. Define the layout of the oil and gas components in this development.
    - c. Define clearly how the proposed oil and gas development interfaces with the following:
      - (1) The Comprehensive Plan (all sections).
      - (2) Land use.
      - (3) The zoning district.
      - (4) Connectivity.
      - (5) Density.
      - (6) Open space.
    - d. Define the proposed access for this oil and gas development as follows:
      - (1) Define the treatments that will be applied to the roadways on the perimeter and internal to the site.

- (2) Define how the oil and gas site functions with the proposed access(s).
- (3) Define what improvements will be made to the streetscape (if applicable).
- (4) Define how entries to the oil and gas development are enhanced.
- e. Define the setbacks proposed for these facilities both during initial operation and long term.
- f. Define the fencing plan for the oil and gas development, both during drilling and long term.
- g. Define how the oil and gas improvements will be managed.
- h. Define the planned truck routes and how the oil and gas traffic will affect Severance transportation.
- i. Define how the landscape design will be achieved.
- j. Define the irrigation system and explain sources of water.
- k. Explain how stormwater will be managed.
- l. Explain how the landscape will be maintained.
- m. Explain how parking will be addressed.
- n. Explain how exterior lighting will be addressed.
- o. Enumerate the potential impact on adjacent neighborhoods.
- p. If noise or smells are associated with the development, define the plans for mitigation.

**Sec. 16.8.50. Review criteria. (Sec. 16.11.50)**

- (a) The Town Council shall approve an application for a use by special review for a well site if the application conforms to the following requirements:
  - 1. The site plans for a well site application comply with the requirements of this Article.
  - 2. The vicinity maps for a well site application comply with the requirements of this Article.
  - 3. The narrative for a well site application complies with the requirements of this Article.
  - 4. When applicable, complies with the provisions for geologic hazards, floodplains or floodway required in Section 16.8.100 of this Article.
  - 5. When applicable, complies with the provisions for wildlife mitigation procedures required in Section 16.8.130 of this Article.
- (b) Town Council public hearing and action. The Town Council shall review and act on the recommendation of the Planning Commission regarding the use by special review site plan as a regular agenda item. The Town Council may choose to approve, approve with conditions, or take no action on the use by special review site plan. The standard appeal process will apply to any applicant dispute with the final action. This process is described in Article 2, Chapter 16 of this Code.

**Sec. 16.8.60. Notice to proceed.** *(Sec. 16.11.60)*

Prior to commencement of operations for which a use by special review has been approved, a "Notice to Proceed" shall be obtained from the Town. The Town shall issue the "Notice to Proceed" upon receipt of the following:

- (a) A copy of the resolution approving a use by special review for a well or wells
- (b) A copy of the approved site plan
- (c) A copy of an approved extra-legal vehicle or load permit issued by the Town pursuant to this Code, if applicable
- (d) Copies of any necessary state or federal permits issued for the operation, if not previously submitted

**Sec. 16.8.70. Building permit.** *(Sec. 16.11.70)*

Building permits must be obtained for all aboveground structures to which the International Building Code applies.

**Sec. 16.8.80. Development setbacks from wells and facilities.** *(Sec. 16.11.80)*

- (a) When wells are existing, buildings shall not be constructed within the following distances:
  - 1. Buildings not necessary to the operation of the well shall not be constructed within three hundred and fifty (350) feet of any such well and/or facility.
  - 2. Buildings to be used as places of assembly, institutions or schools shall not be constructed within five hundred (500) feet of any well and/or facility.
- (b) When wells are existing, lots and roads shall not be platted within the following distances:
  - 1. Lots shall not be platted within three hundred and fifty (350) feet of an existing oil or gas well or its production facilities.
  - 2. Lots intended to be used as places of assembly, institutions or schools shall not be platted to allow a building site within five hundred (500) feet of an existing oil or gas well or its production facilities.
  - 3. Streets shall not be platted within one hundred and fifty (150) feet of an existing oil or gas well or its production facilities, provided that streets may cross collection flowlines at right angles.
  - 4. Lots shall not be platted within fifty (50) feet of well and production sites that have been plugged, abandoned, and reclaimed. Such platting shall only occur after the completion of the plugging, abandonment, and reclamation process. Plugged and abandoned wells shall be platted in their own separate non-buildable tract with adequate access.

**Commented [JO1]:** Mary Lynn to check.

**Commented [AS2R1]:** The local government gets to choose the setback from a well for new development. The state gets to choose how close a well can go to an existing development.

5. Plugged and abandoned wells that are not visible shall be exposed, with the facility owner's permission, and their exact location shall be surveyed by a professional land surveyor. The plugged and abandoned well shall be backfilled and compacted. The location of the plugged and abandoned well shall be permanently marked with a visible post indicating the ECOM and American Petroleum Institute (API) well number.
6. Oil and gas pipelines shall be located within a minimum thirty-foot-wide (30') non-buildable tract or easement and no closer than fifty (50) feet to an occupied structure. The oil and gas pipeline shall be centered in the tract and in no case less than ten (10) feet from the edge of the tract. Oil and gas pipelines shall not be placed within public right-of-way, other public lands and/or lots intended for future development. This requirement does not apply to natural gas pipelines that provide retail service.

**Sec. 16.8.90. Compliance with state environmental requirements.** (Sec. 16.11.90)

The approval of an oil and gas use by special review shall not relieve the operators from complying with all current applicable state and federal regulations and standards concerning air quality, water quality and waste disposal. Additionally, applicant must adhere to all Town of Severance fugitive dust requirements.

**Sec. 16.8.100. Geologic hazard, floodplain, floodway location restrictions.** (Sec. 16.11.100)

All equipment at well sites and production sites in geological hazard and floodplain areas shall be anchored to the extent necessary to resist flotation, collapse, lateral movement, or subsidence and to the extent necessary to comply with the Federal Emergency Management Act.

**Sec. 16.8.110. Access roads.** (Sec. 16.11.110)

All private roads used to maintain access to the tank batteries, or the well site shall be improved and maintained according to the following standards:

- (a) Tank battery access roads. Access roads to tank batteries shall be subject to review by the Town Engineering accordance with the following minimum standards:
  1. A graded gravel roadway having a prepared subgrade and an aggregate base course surface a minimum of eight (8) inches thick. Subgrade section shall be scarified a minimum depth of nine (9) inches, moisture conditioned to within +/- two percent (2%) of the material's optimum moisture content as determined by ASTM Specification D698 and compacted to at least ninety-five percent (95%) of the material's maximum dry density as determined by the standard Proctor test. The aggregate material, at a minimum, shall meet the requirements for Class 5 or 6, Aggregate Base Course as specified for aggregate base course materials in the Colorado Department of Transportation's "Standard Specifications for Road and Bridge Construction," latest

edition. Additional requirements may be imposed dependent on the type and frequency of vehicles using the access roads.

2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways (such as roadside swales, gulches, rivers, creeks, and the like) by means of an adequate culvert pipe (adequacy of pipe subject to approval by the Town Engineer)
3. Maintained so as to provide a passable roadway free of ruts at all times

(b) Wellhead access roads. Access roads to wellheads shall be subject to review by the Town Engineer accordance with the following minimum standards:

1. A graded, dirt roadway shall be scarified a minimum depth of nine (9) inches, moisture conditioned to within +/- two percent (2%) of the material's optimum moisture content as determined by ASTM Specification D698 and compacted to at least ninety-five percent (95%) of the material's maximum dry density as determined by the standard Proctor test. Additional requirements may be imposed dependent on the type and frequency of vehicles using the access roads.
2. Graded so as to provide drainage from the roadway surface and constructed to allow for cross-drainage of waterways by means of an adequate culvert pipe (adequacy of pipe subject to approval by the Town Engineer)
3. Maintained so as to provide a passable roadway generally free of ruts

(c) Public access roads. An extra-legal vehicle or load permit shall be required for all extra-legal vehicles or loads that use Town streets, as defined in Sections 42-4-401 through 42-4-414, CRS. Said permit, if required, shall be obtained from the Town prior to such use. The applicant shall comply with all Town and state regulations regarding weight limitations on streets within the Town, and the applicant shall minimize extra-legal truck traffic on streets within the Town.

**Sec. 16.8.120. Public roads impact. (Sec. 16.11.120)**

- (a) Every permit issued by the Town shall require the applicant or operator to pay a fee that is sufficient to pay the estimated cost for all impacts that the proposed operation may cause to facilities owned or operated by the Town or used by the general public, including but not limited to:
1. Repair and maintenance of roads.
  2. Bridges and other transportation infrastructure.
  3. Improvements made or to be made by the Town to accommodate the operations and to protect public health, safety, and welfare.
  4. Costs incurred to process and analyze the application, including the reasonable expenses paid to independent experts or consultants.

- (b) The Town shall establish a mechanism to assess and obtain payment of such fees, subject to the right of the Town to request additional funds if the fees prove to be insufficient or to refund surplus funds to the operator if the fees paid exceed the true cost of the impacts.
- (c) The Town may further require that the applicant or operator or both post a bond in an amount to be set during the site plan phase as security in the event that additional damages occur to facilities owned or operated by the Town or used by the general public.
- (d) As a condition of issuance of the permit and on an as-needed basis, the Town may require that additional site-specific measures be undertaken by the applicant or operator in order to protect and preserve facilities owned or operated by the Town or used by the general public.
- (e) Applicant or operator shall provide tracking pad at any point of access to public right-of-way.
- (f) Applicant or operator is responsible for any damage to the public roads adjacent to proposed access. Public works department will inspect access upon completion and monitor throughout its use.

**Sec. 16.8.130. Wildlife impact mitigation.** *(Sec. 16.11.130)*

applicant will be required to conform with any regulations of the Colorado Wildlife Commission regarding any wildlife impacts that are a direct result of the proposed well site.

**Sec. 16.8.140. Emergency response costs.** *(Sec. 16.11.140)*

The operator shall reimburse the Town or the responsible fire district for any emergency response costs incurred by the Town or the responsible fire district in connection with activity at the well site or production site, except that the operator shall not be required to pay for emergency response costs where the response was precipitated by a mistake of the Town.

**Sec. 16.8.150. Violation and enforcement.** *(Sec. 16.11.150)*

- (a) Unlawful to construct or install unapproved oil and gas facilities. Except as otherwise provided in this article, it is unlawful to construct, install or cause to be constructed or installed any oil and gas facility within the Town unless approval has been granted by the Town Council. The unlawful drilling or re-drilling of any well or the production therefrom is a violation of this article.
- (b) Penalty. Any person, firm, corporation or legal entity that constructs, installs or uses or causes to be constructed, installed or used any oil, gas or injection well, well site or production site or commits any act or omission in violation of any provision of this article or the conditions and requirements of the oil and gas use by special review approval may be punished by a fine of not

more than one thousand dollars (\$1,000.00). Each day of such unlawful operation constitutes a separate violation.

1. Suspension of approval. If the Town determines at any time that there is a violation of the conditions of the use by special review approval or that there are material changes in an oil and gas operation or facility as approved, the Town may, for good cause, temporarily suspend the use by special review approval. In such cases, upon oral or written notification by the Town, the operator shall cease operations immediately. The Town shall provide the operator with written notice of the violation or identification of the changed conditions. The operator shall have a maximum of fifteen (15) days to correct the violation. If the violation is not timely corrected, the approval may be further suspended pending a revocation hearing. The operator may request an immediate hearing regarding the suspension before the Town Council or committee, which shall hold the hearing within ten (10) days of the operator's written request.
  2. Revocation of approval. The Town Council or committee may, following notice and hearing, revoke a Town-approved use by special review granted pursuant to this article if any of the activities conducted by the operator violate the conditions of the approval or this article or constitute material changes in the oil and gas operation approved by the Town. The Town shall provide to the operator written notice of the violation or the material changes and the time and date of the hearing. No less than thirty (30) days prior to the revocation hearing, the Town shall provide to the applicant and operator written notice setting forth the violation and the time and date of the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days prior to the hearing. Following the hearing, the Town may revoke the approval or specify a time by which action shall be taken to correct any violations of the approval to avoid revocation.
  3. Transfer of approval. A use by special review approval may be transferred only with the written consent of the Town.
  4. Judicial review. Any action seeking judicial review of a final administrative decision of the Town shall be initiated within twenty-eight (28) days after the decision was made.
- (c) Civil action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this article or the conditions and requirements of the oil and gas use by special review approval, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.
- (d) False or inaccurate information. The Town Council may revoke an oil and gas use by special review approval if it is determined, after an administrative hearing held on at least ten (10) days' notice to the applicant, that the applicant provided information and/or documentation upon

which approval was based and which the applicant, its agents, servants or employees knew or reasonably should have known was materially false, misleading, deceptive or inaccurate.

- (e) Prospective application. Unless specifically provided otherwise, this article shall apply only to wells that are drilled in the Town on and after the date that this article is adopted. The reentering of a well in existence prior to the date of adoption of this article for purposes of deepening, recompleting, or reworking shall not require approval of a use by special review.
- (f) Recovery of fees. Should the Town prevail in any action for legal or equitable relief for a violation of the provisions of this article, the Town shall be entitled to recover any damages, costs of action, expert witness fees and reasonable attorneys' fees incurred in addition to any other penalties or remedies that may be available.

DRAFT

## Article 9 – Solar Facilities Development (*Chapter 16, Article 11*)

### Sec. 16.9.10. Purpose. (*Sec. 16.11.160*)

These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the present and future residents of the Town. By enacting these regulations, the Town' intends to facilitate the development of solar facilities within the Town while mitigating potential land use conflicts between such development and existing, as well as Planned, land uses.

### Sec. 16.9.20. Definitions. (*Sec. 16.11.160*)

All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning, and all words that are of a technical nature or peculiar to the solar energy development industry shall be given the meaning that is generally accepted in that industry. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings:

- *Ground-mounted solar energy facility* means a solar energy system that is structurally mounted to the ground and is not roof-mounted. Ground-mounted systems include parking lot or parking canopy solar.
- *Roof-mounted solar energy facility* means a solar energy system that is structurally mounted to the roof of a building or structure not solely designed to support the solar energy system.
- *Single-family residential solar* means any device or structural design feature with the primary purpose of providing for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation or water heating for personal use must conform to all IRC building Codes and will be permitted through the Town of Severance Building Department.
- *Solar energy facility* means any device or structural design feature with the primary purpose of providing for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation or water heating.
- *Solar facility, small scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines under one hundred fifteen (115) kilovolts, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and is located on less than twenty (20) acres.
- *Solar facility, medium scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power

generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines under one hundred fifteen (115) kilovolts, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and is located on twenty (20) acres or more.

- *Solar facility, large scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and has a rated capacity greater than thirty (30) megawatts.

**Sec. 16.9.30. Application elements.** ([Sec. 16.11.160](#))

The Town shall consider the following in making a determination for approving or denying a use by special review for a solar facility:

- (a) A site plan. An approved site plan, following the procedures of Article 2 of this Code, is required for all small, medium, and large-scale solar facilities prior to building permit approval. In addition to the submittal requirements listed in Article 2 of this Code for a site plan application, the following shall be included:
  1. Property lines and physical features, including roads, for the project site
  2. Proposed changes to the landscape of the site, grading, vegetation clearing and Planting, exterior lighting, screening vegetation or structures
  3. Location of layout, including without limitation blueprints or drawings of the solar energy system showing the proposed layout of the system, the distance between the proposed solar collection facilities and all property lines and the tallest finished height of the solar collection facilities.
  4. Name, address, and contact information for proposed system installer
  5. Name, address, phone number and signature of the project proponent and all co-proponents or property owners, if any.
  6. Lot coverage: The area covered by ground-mounted solar energy systems, where the ground beneath is permeable or pervious, shall not be included in calculations for lot coverage for purposes of zoning.
- (b) A decommissioning plan. Adequate financial assurance to cover the decommissioning of the facility may be required as a condition of approval of the decommissioning plan which financial assurance may be posted over the life of the project.
- (c) A landscape/irrigation plan. Landscaping is extremely important for enhancing the quality of development in the area. Trees, shrubs, and other plantings add greatly to the aesthetic appeal while reducing glare. As no single landscaping plan can be prescribed for all developments due to differing land features, solar access, topography and soils, these guidelines encourage flexible and creative landscape designs. Landscaping/screening shall include, at a minimum, decorative

fencing, berming and/or vegetation such that the facility is aesthetically pleasing as viewed from adjacent properties and rights-of-way. Native grasses and wildflower mixes are encouraged.

- (d) Property maintenance plan. A property maintenance plan may be required for the facility. The property maintenance plan shall address dust, weeds, and erosion. The property shall be maintained in such a manner as to control dust, weeds and drainage that could cause erosion.
- (e) Stormwater/erosion mitigation plans. For ground-mounted systems, regardless of size, applicant must provide plan(s) showing what measures or best management practices will be used to prevent and/or contain erosion under the drip line of the solar panels.

**Sec. 16.9.40. Site and operational requirements. (Sec. 16.11.160)**

- (a) Except during construction, no outdoor storage of any materials and equipment, including but not limited to solar panels and support structures not in operation will be allowed.
- (b) All solar panels and equipment (excluding fencing, poles, buried cables and wires necessary to connect to facilities of the electric utility) shall meet the minimum setbacks. Setbacks shall be measured from the edge of the solar panels and equipment. Per Section 16.9.50, additional setbacks may be required to mitigate noise and visual impacts or to provide for designated road or utility corridors, as identified through the review process.
- (c) Maximum height: The height shall be measured from the highest grade below each solar panel. Ground-mounted solar energy systems shall not exceed twenty (20) feet in height.
- (d) Signage: Clearly visible warning signs shall be placed on the fence, barrier, or facility perimeter to inform individuals of potential voltage hazards.
- (e)

**Sec. 16.9.50. Additional setbacks. (Sec. 16.11.160)**

Additional setbacks may be required to mitigate noise and visual impacts or to provide for designated road or utility corridors, as identified through the review process. Where appropriate, landscaped berms may be used to reduce setback requirements with Town approval.

- (a) Small-scale.
  - 1. Front: thirty (30) feet.
  - 2. Side: ten (10) feet.
  - 3. Side corner: thirty (30) feet.
  - 4. Rear: twenty (20) feet.
  - 5. Arterial or state highway: fifty (50) feet.
  - 6. Local or collector: fifty (50) feet.
- (b) Medium-scale.
  - 1. Front: fifty (50) feet.
  - 2. Side: ten (10) feet.
  - 3. Side corner: fifty (50) feet.
  - 4. Rear: twenty (20) feet.
  - 5. Arterial or state highway: one hundred (100) feet.

6. Local or collector: fifty (50) feet.
- (c) Large-scale.
1. Front: fifty (50) feet.
  2. Side: ten (10) feet or one (1) foot per two (2) feet height, whichever is greater.
  3. Side corner: fifty (50) feet.
  4. Rear: twenty (20) feet.
  5. Arterial or state highway: one hundred (100) feet.
  6. Local or collector: fifty (50) feet.

**Sec. 16.9.60. Decommissioning requirements. ([Sec. 16.11.160](#))**

Any solar energy system that is no longer producing energy or has been abandoned shall be removed, not including a temporary cease in production for maintenance. The owner or operator shall physically remove the installation within ninety (90) days after the date of discontinued operations or as otherwise provided in the decommissioning plan. Decommissioning shall consist of:

- (a) Physical removal of all solar energy systems, structures, and equipment from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) For ground-mounted solar energy systems, stabilization, or revegetation of the site as necessary to minimize erosion. The Town may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

## Article 9 – Solar Facilities Development (Chapter 16, Article 11)

### Sec. 16.9.10. Purpose. (Sec. 16.11.160)

These regulations are enacted to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the present and future residents of the Town. By enacting these regulations, the Town intends to facilitate the development of solar facilities within the Town while mitigating potential land use conflicts between such development and existing, as well as Planned, land uses.

### Sec. 16.9.20. Definitions. (Sec. 16.11.160)

All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning, and all words that are of a technical nature or peculiar to the solar energy development industry shall be given the meaning that is generally accepted in that industry. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings:

- *Ground-mounted solar energy facility* means a solar energy system that is structurally mounted to the ground and is not roof-mounted. Ground-mounted systems include parking lot or parking canopy solar.
- *Roof-mounted solar energy facility* means a solar energy system that is structurally mounted to the roof of a building or structure not solely designed to support the solar energy system.
- *Single-Single-family residential solar* means any device or structural design feature with the primary purpose of providing for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation or water heating for personal use must conform to all IRC building Codes and will be permitted through the Town of Severance Building Department.
- *Solar energy facility* means any device or structural design feature with the primary purpose of providing for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation or water heating.
- *Solar facility, small scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines under one hundred fifteen (115) kilovolts, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and is located on less than twenty (20) acres.

**Commented [JO1]:** Mary Lynn - add introductory language similar to O&G about these definitions being specific to this Article.

- *Solar facility, medium scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines under one hundred fifteen (115) kilovolts, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and is located on twenty (20) acres or more.
- *Solar facility, large scale* means a facility used for the production of electrical energy from energy produced by and collected from the sun, including solar energy collectors, power generation facilities, facilities for storing and transforming energy, other appurtenant facilities and any transmission lines, which is developed for the purpose of supplying or distributing electrical energy to users, a customer or customers and has a rated capacity greater than thirty (30) megawatts.

**Sec. 16.9.30. Application elements.** (Sec. 16.11.160)

The ~~Staff, Planning Commission and Town Council~~Town shall consider the following ~~criteria~~ in making ~~their~~a determination for approving or denying a ~~permit use by special review~~ for a solar facility:

- (a) A site plan. An ~~approved~~ site plan, ~~following the procedures of Article 2 of this Code, review~~ is required for all small, medium, and large-scale solar facilities prior to building permit approval. In addition to the ~~criteria-submittal requirements~~ listed in ~~Section 16.5.10~~Article 2 of this Code ~~for a site plan application, the site plan~~following documents shall ~~be~~ included:
  1. Property lines and physical features, including roads, for the project site
  2. Proposed changes to the landscape of the site, grading, vegetation clearing and Planting, exterior lighting, screening vegetation or structures
  3. Location of layout, including without limitation blueprints or drawings of the solar energy system showing the proposed layout of the system, the distance between the proposed solar collection facilities and all property lines and the tallest finished height of the solar collection facilities.
  4. Name, address, and contact information for proposed system installer
  5. Name, address, phone number and signature of the project proponent and all co-proponents or property owners, if any.
  6. Lot ~~Coverage~~coverage: The area covered by ground-mounted solar energy systems, where the ground beneath is permeable or pervious, shall not be included in calculations for lot coverage for purposes of zoning.
- (b) A decommissioning plan. Adequate financial assurance to cover the decommissioning of the facility may be required as a condition of approval of the decommissioning plan which financial assurance may be posted over the life of the project.
- (c) A landscape/irrigation plan. Landscaping is extremely important for enhancing the quality of development in the area. Trees, shrubs, and other plantings add greatly to the aesthetic appeal while reducing glare. As no single landscaping plan can be prescribed for all developments due to differing land features, solar access, topography and soils, these guidelines encourage flexible

and creative landscape designs. Landscaping/screening shall include, at a minimum, decorative fencing, berming and/or vegetation such that the facility is aesthetically pleasing as viewed from adjacent properties and rights-of-way. Native grasses and wildflower mixes are encouraged.

(d) Property maintenance plan. A property maintenance plan may be required for the facility. The property maintenance plan shall address dust, weeds, and erosion. The property shall be maintained in such a manner as to control dust, weeds and drainage that could cause erosion.

~~(d)~~(e) Stormwater/erosion mitigation plans. For ground-mounted systems, regardless of size, applicant must provide plan(s) showing what measures or best management practices will be used to prevent and/or contain erosion under the drip line of the solar panels.

**Sec. 16.9.40. Site and operational rRequirements. (Sec. 16.11.160)**

- (a) Except during construction, no outdoor storage of any materials and equipment, including but not limited to solar panels and support structures not in operation will be allowed.
- (b) All solar panels and equipment (excluding fencing, poles, buried cables and wires necessary to connect to facilities of the electric utility) shall meet the minimum setbacks. Setbacks shall be measured from the edge of the solar panels and equipment. Per Section 16.9.50, Additional additional setbacks may be required to mitigate noise and visual impacts or to provide for designated road or utility corridors, as identified through the review process.
- (c) Maximum height: The height shall be measured from the highest grade below each solar panel. Ground-mounted solar energy systems shall not exceed twenty (20) feet in height.
- (d) Signage: Clearly visible warning signs shall be placed on the fence, barrier, or facility perimeter to inform individuals of potential voltage hazards.
- (e) Stormwater/erosion mitigation plans. For ground-mounted systems, regardless of size, applicant must provide Plan(s) showing what measures or best management practices will be used to prevent and/or contain erosion under the drip line of the solar panels.

**~~Sec. 16.9.50. Decommissioning.~~ (Sec. 16.11.160)**

~~Any solar energy system that is no longer producing energy or has been abandoned shall be removed, not including a temporary cease in production for maintenance. The owner or operator shall physically remove the installation within ninety (90) days after the date of discontinued operations or as otherwise provided in the decommissioning Plan. Decommissioning shall consist of:~~

- ~~(a) Physical removal of all solar energy systems, structures, and equipment from the site.~~
- ~~(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.~~
- ~~(c) For ground-mounted solar energy systems, stabilization, or revegetation of the site as necessary to minimize erosion. The Town of Severance may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.~~

**Sec. 16.9.6050. Additional Setbacks**, (Sec. 16.11.160)

Additional setbacks may be required to mitigate noise and visual impacts or to provide for designated road or utility corridors, as identified through the review process. ~~As provided in 16.11.160(d)(2), setbacks shall be measured from the edge of the solar panels and equipment.~~ Where appropriate, landscaped berms may be used to reduce setback requirements with ~~Board~~ Town approval.

(a) Small ~~S~~-scale.

1. Front: thirty (30) feet.
2. Side: ten (10) feet.
3. Side corner: thirty (30) feet.
4. Rear: twenty (20) feet.
5. Arterial or state highway: fifty (50) feet.
6. Local or collector: fifty (50) feet.

(b) Medium ~~S~~-scale.

1. Front: fifty (50) feet.
2. Side: ten (10) feet.
3. Side corner: fifty (50) feet.
4. Rear: twenty (20) feet.
5. Arterial or state highway: one hundred (100) feet.
6. Local or collector: fifty (50) feet.

(c) Large ~~S~~-scale.

1. Front: fifty (50) feet.
2. Side: ten (10) feet or one (1) foot per two (2) feet height, whichever is greater.
3. Side corner: fifty (50) feet.
4. Rear: twenty (20) feet.
5. Arterial or state highway: one hundred (100) feet.
6. Local or collector: fifty (50) feet.

**Sec. 16.9.60. Decommissioning requirements**, (Sec. 16.11.160)

Any solar energy system that is no longer producing energy or has been abandoned shall be removed, not including a temporary cease in production for maintenance. The owner or operator shall physically remove the installation within ninety (90) days after the date of discontinued operations or as otherwise provided in the decommissioning plan. Decommissioning shall consist of:

(a) Physical removal of all solar energy systems, structures, and equipment from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) For ground-mounted solar energy systems, stabilization, or revegetation of the site as necessary to minimize erosion. The Town may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

## Article 10 – Flood Damage Prevention *(Chapter 16, Article 14)*

### Division 1 – General Provisions and Applicability.

#### Sec. 16.10.100. Statutory authorization. *(Sec. 16.14.10)*

The legislature of the State has, in Article 20 of Title 29, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council hereby adopts the following floodplain management regulations.

#### Sec. 16.10.105. Findings of fact. *(Sec. 16.14.20)*

- (a) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities. Flood losses are also created by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

#### Sec. 16.10.110. Statement of purpose. *(Sec. 16.14.30)*

It is the purpose of this article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health.
- (b) Minimize expenditure of public money for costly flood control projects.
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (d) Minimize prolonged business interruptions.
- (e) Minimize damage to critical facilities, infrastructure and other public facilities, such as water, sewer and gas mains, electric and communications stations and streets and bridges located in floodplains.
- (f) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.

- (g) Ensure that potential buyers are notified that property is located in a flood hazard area.

**Sec. 16.10.115. Methods of reducing flood losses. (Sec. 16.14.40)**

In order to accomplish its purposes, this article uses the following methods:

- (a) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities.
- (b) Requires that uses vulnerable to floods, including facilities that serve such uses, are protected against flood damage at the time of initial construction.
- (c) Controls the alteration of natural floodplains, stream channels and natural protective barriers that are involved in the accommodation of floodwaters.
- (d) Controls filling, grading, dredging and other development that may increase flood damage.
- (e) Prevents or regulates the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

**Sec. 16.10.120. Lands to which article applies. (Sec. 16.14.120)**

This article shall apply to all special flood hazard areas (SFHAs) and areas removed from the floodplain by the issuance of a FEMA LOMR-F within the jurisdiction of the Town.

**Sec. 16.10.130. Basis for establishing SFHA. (Sec. 16.14.130)**

The SFHAs identified by FEMA in the scientific and engineering report *The FIS for the Town of Severance, Colorado*, dated May 31, 2013, with accompanying FIRMs and/or FBFMs and the revisions thereto as shown on those portions of FIRM Number 08123C1185E, Number 08123C1205E, Number 08123C1211E, Number 08123C1213E, and Number 08123C1501E, Weld County, Colorado, effective January 20, 2016, that are currently within the corporate limits of the Town are hereby adopted by reference and declared to be a part of this article. These SFHAs identified by the FIS and attendant mapping are the minimum area of applicability of this article and may be supplemented by studies designated and approved by the Town. The floodplain administrator shall keep a copy of the FIS, DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

**Sec. 16.10.140. Establishment of floodplain development permit.** *(Sec. 16.14.140)*

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

**Sec. 16.10.150. Compliance.** *(Sec. 16.14.150)*

No structure or land shall hereafter be located, altered or have its use changed within the SFHA without full compliance with the terms of this article and other applicable regulations. Nothing herein shall prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and NFIP.

**Sec. 16.10.160. Abrogation and greater restrictions.** *(Sec. 16.14.160)*

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 16.10.170. Interpretation.** *(Sec. 16.14.170)*

In the interpretation and application of this article, all provisions shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Sec. 16.10.180. Warning and disclaimer of liability.** *(Sec. 16.14.180)*

- (a) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by human-made or natural causes.
- (b) This article does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Article, or any administrative decision lawfully made thereunder.

**Sec. 16.10.190. Severability.** (Sec. 16.14.190)

This article and the various parts thereof are hereby declared to be severable. Should any section of this article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the article as a whole or any portion thereof, other than the section so declared to be unconstitutional or invalid.

**Division 2 – Definitions.** (Division 1, Sec. 16.14.110)

**Sec. 16.10.210. Definitions.** (Sec. 16.14.110)

- All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings: *100-year flood* means a flood having a recurrence interval that has a one-percent (1%) chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms *one-hundred-year flood* and *one-percent-chance flood* are synonymous with the term *100-year flood*. The term does not imply that the flood will necessarily happen once every one hundred (100) years.
- *100-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.
- *500-year flood* means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual flood). The term does not imply that the flood will necessarily happen once every five hundred (500) years.
- *500-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred (500)-year flood.
- *Addition* means any activity that expands the enclosed footprint or increases the square footage of an existing structure.
- *Alluvial fan flooding* means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.
- *Area of shallow flooding* means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent (1%) chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where

the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

- **Base Flood Elevation (BFE)** means the elevation shown on a FEMA FIRM for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent (1%) chance of equaling or exceeding that level in any given year.
- **Basement** means any area of a building having its floor subgrade (below ground level) on all sides.
- **Channel** means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.
- **Channelization** means the artificial creation, enlargement or realignment of a stream channel.
- **Code of Federal Regulations (CFR)** means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into fifty (50) titles that represent broad areas subject to federal regulation.
- **Community** means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, Towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.
- **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project, which does not revise an effective floodplain map and which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.
- **Critical Facility** means a structure or related infrastructure but not the land on which it is situated that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
- **Development** means any human-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- **DFIRM (Digital Flood Insurance Rate Map) database** means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA mapping specifications and guidelines outline requirements for the development and maintenance of DFIRM databases.
- **Digital Flood Insurance Rate Map (DFIRM)** means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.
- **Elevated building** means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground

level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, *elevated building* also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

- *Federal Register* means the official daily publication for rules, proposed rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.
- *FEMA* means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program (NFIP).
- *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of water from channels and reservoir spillways.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
  3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).
- *Flood control structure* means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.
- *Flood Insurance Rate Map (FIRM)* means an official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- *Flood Insurance Study (FIS)* means the official report provided by FEMA. The report contains the FIRM and flood profiles for studied flooding sources that can be used to determine BFEs for some areas.
- *Floodplain or flood-prone area* means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.
- *Floodplain Administrator* means the community official designated by title to administer and enforce the floodplain management regulations.
- *Floodplain Development Permit* means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other

**Commented [AS1]:** These definitions could conflict with other definitions in the chapter and will not affect FEMA compliance.

development, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this article.

- *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness Plans, flood control works and floodplain management regulations.
- *Floodplain management regulations* means zoning ordinances, subdivision regulations, building Codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.
- *Floodproofing* means any combination of structural and/or nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- *Floodway (regulatory floodway)* means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.
- *Freeboard* means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.
- *Functionally dependent use* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.
- *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- *Historic structure* means any structure that is:
  1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district
  3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - a. By an approved state program as determined by the Secretary of the Interior.
    - b. Directly by the Secretary of the Interior in states without approved programs.
- *Letter of Map Revision (LOMR)* means FEMA's official revision of an effective FIRM or Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs or the SFHA.
  - *Letter of Map Revision Based on Fill (LOMR-F)* means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.
  - *Levee* means a human-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.
  - *Levee system* means a flood protection system that consists of a levee or levees and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
  - *Lowest floor* means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes that includes working, storage, sleeping, cooking and eating or recreation or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the NFIP regulations.
  - *Material Safety Data Sheet (MSDS)* means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner and includes information such as physical data

(melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

- *Mean sea level* means, for purposes of the NFIP, the North American Vertical Datum (NAVD) of 1988 or other datum to which BFEs shown on a community's FIRM are referenced.
- *National Flood Insurance Program (NFIP)* means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the CFR. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.
- *New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- *No-rise certification* means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or FBFM.
- *Physical Map Revision (PMR)* means FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or Planimetric features.
- *Recreational vehicle* means a vehicle that is:
  1. Built on a single chassis.
  2. Four hundred (400) square feet or less when measured at the largest horizontal projections.
  3. Designed to be self-propelled or permanently towable by a light duty truck.
  4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- *Special Flood Hazard Area* means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year, i.e. the one hundred (100)-year floodplain.
- *Start of construction* means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the

construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- *Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure just prior to when the damage occurred.
- *Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
  1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety Code specifications that have been identified by the local Code enforcement official and that are the minimum necessary conditions.
  2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- *Threshold Planning Quantity (TPQ)* means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency Planning requirements.
- *Variance* means a grant of relief to a person from the requirement of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements, see Section 60.6 of the NFIP regulations).
- *Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) [of the NFIP regulations] is presumed to be in violation until such time as that documentation is provided.

- *Water surface elevation* means the height, in relation to the NAVD of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

DRAFT

### **Division 3 – Administration**

#### **Sec. 16.10.310. Designation of floodplain administrator. (Sec. 16.14.310)**

The Town is hereby appointed as the floodplain administrator to administer, implement and enforce the provisions of this article and other appropriate sections of 44 CFR (NFIP regulations) pertaining to floodplain management.

#### **Sec. 16.10.320. Duties and responsibilities of floodplain administrator. (Sec. 16.14.320)**

Duties and responsibilities of the floodplain administrator shall include but not be limited to the following:

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate.
- (b) Review, approve or deny all applications for floodplain development permits required by adoption of this article.
- (c) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (d) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
- (e) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this article, including proper elevation of the structure.
- (f) Where interpretation is needed as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (g) When BFE data has not been provided in accordance with this article, the floodplain administrator shall obtain, review and reasonably utilize any BFE data and floodway data available from a federal, state or other source, in order to administer the provisions of this article.
- (h) For waterways with BFEs for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM unless it is demonstrated that the

cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (½) foot at any point within the community.

- (i) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP regulations, a community may approve certain development in Zones A1-30, AE or AH on the community's FIRM that increases the water surface elevation of the base flood by more than one-half (½) foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional LMR), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- (j) Prior to any alteration or relocation of a watercourse, notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, and submit evidence of such notification to FEMA.
- (k) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

**Sec. 16.10.330. Permit procedures. (Sec. 16.14.330)**

- (a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him or her and may include but not be limited to Plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to SFHA. Additionally, the following information is required:
  - 1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
  - 2. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed.
  - 3. A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph 16.10.420(2) of this Article.
  - 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
  - 5. A record of all such information.
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
  - 1. The danger to life and property due to flooding or erosion damage.
  - 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

3. The danger that materials may be swept onto other lands to the injury of others.
4. The compatibility of the proposed use with existing and anticipated development.
5. The safety of access to the property in times of flood for ordinary and emergency vehicles.
6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems.
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
8. The necessity to the facility of a waterfront location, where applicable.
9. The availability of alternative locations not subject to flooding or erosion damage for the proposed use.
10. The relationship of the proposed use to the comprehensive Plan for that area.

**Sec. 16.10.340. Variance procedures.** (*Sec. 16.14.340*)

- (a) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in **Section 16.10.130** of this Article have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article as stated in **Section 16.10.130**.

- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
  - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - 2. Variances shall only be issued upon:
    - a. A good and sufficient cause.
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, will not create nuisances and will not cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
  - 3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the BFE and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - 1. The criteria outlined in **Section 16.10.130** are met.
  - 2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### **Division 4 – Flood Hazard Reduction.**

##### **Sec. 16.10.410. General standards. (Sec. 16.14.410)**

In all SFHAs, the following provisions are required for all new construction and substantial improvements:

- (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (d) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (e) All manufactured homes shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (f) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.
- (h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**Sec. 16.10.420. Specific standards.** *(Sec. 16.14.420)*

In all SFHAs where BFE data has been provided as set forth in [Section 16.10.320](#), the following provisions are required:

- (a) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the BFE. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (b) Nonresidential construction.

1. With the exception of critical facilities, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the BFE or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the BFE, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
2. A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and Plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the floodplain administrator.

(c) Enclosures.

1. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
2. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade.

Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(d) Manufactured homes.

1. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to one (1) foot above the BFE and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above subparagraph shall be elevated so that either:
  - a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are one (1) foot above the BFE.
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (e) Recreational vehicles. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall either:
  1. Be on the site for fewer than one hundred eighty (180) consecutive days.
  2. Be fully licensed and ready for highway use.
  3. Meet the permit requirements of Section 16.10.330 of this Article and the elevation and anchoring requirements for "manufactured homes" in Paragraph (4) of this section.A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (f) Prior approved activities. Any activity for which a floodplain development permit was issued by the Town or a CLOMR was issued by FEMA may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this article if it meets such standards.

**Sec. 16.10.430. Standards for areas of shallow flooding (AO/AH zones).** *(Sec. 16.14.430)*

Located within the SFHA established in Section 16.10.130 of this Article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (a) Residential construction. All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including

basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.

- (b) Nonresidential construction. With the exception of critical facilities, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

**Sec. 16.10.440. Floodways.** *(Sec. 16.14.440)*

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of floodway, Section 16.10.210 of this article). Located within SFHA established in Section 16.10.130 of this article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
- (b) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a CLOMR and floodway revision through FEMA.

**Sec. 16.10.450. Alteration of watercourse. (Sec. 16.14.450)**

For all proposed developments that alter a watercourse within a SFHA, the following standards apply:

- (a) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (b) Channelization and flow diversion projects shall evaluate the residual one hundred (100)-year floodplain.
- (c) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and comply with all applicable federal, state and local floodplain rules, regulations and ordinances.
- (d) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (e) All activities within the regulatory floodplain shall meet all applicable federal, state and Town floodplain requirements and regulations.
- (f) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions in the floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Section 16.10.440.
- (g) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

**Sec. 16.10.460. Properties removed from floodplain by fill. (Sec. 16.14.460)**

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA (LOMR-F) unless such new structure or addition complies with the following:

- (a) Residential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the BFE that existed prior to the placement of fill.

- (b) Nonresidential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the BFE that existed prior to the placement of fill or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least one (1) foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**Sec. 16.10.470. Standards for subdivision proposals.** *(Sec. 16.14.470)*

- (a) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- (b) All proposals for the development of subdivisions that include the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements.
- (c) BFE data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions that is greater than fifty (50) lots or five (5) acres, whichever is lesser.
- (d) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**Sec. 16.10.480. Standards for critical facilities.** *(Sec. 16.14.480)*

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- (a) Classification of critical facilities. Critical Facilities are classified under the following categories:
  - (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services. It is the responsibility of the Town to identify and confirm that specific structures in their community meet the following criteria:

1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility Plant facilities and transportation lifelines. These facilities consist of:
  - a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers).
  - b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures but excluding clinics, doctors' offices and non-urgent care medical structures that do not provide these functions).
  - c. Designated emergency shelters.
  - d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems but excluding towers, poles, lines, cables and conduits).
  - e. Public utility Plant facilities for generation and distribution (hubs, treatment Plants, substations and pumping stations for water, power and gas but excluding towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines).
  - f. Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions and associated infrastructure [aviation control towers, air traffic-control centers and emergency equipment aircraft hangars]).
  - g. Specific exemptions to this category include wastewater treatment Plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power generating Plants and related appurtenances.

Public utility Plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the one hundred (100)-year floodplain or are compliant with the provisions of this article and that an operations Plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.

2. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - a. These facilities may include:
    - (1) Chemical and pharmaceutical Plants (chemical Plant, pharmaceutical manufacturing).

- (2) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - (3) Refineries.
  - (4) Hazardous waste storage and disposal sites.
  - (5) Above ground gasoline or propane storage or sales centers.
- b. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a MSDS on file for any chemicals stored or used in the work place and the chemicals are stored in quantities equal to or greater than the TPQ for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 CFR § 302 (2010), also known as extremely hazardous substances or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 CFR § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 CFR § 302 (2010), and OSHA regulation "Occupational Safety and Health Standards," 29 CFR § 1910 (2010), are incorporated herein by reference and include the regulations in existence at the time of the promulgation this article but exclude later amendments to or editions of the regulations.
- c. Specific exemptions to this category include:
- (1) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
  - (2) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
  - (3) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this article.

3. At-risk population facilities include medical care, congregate care and schools. These facilities consist of:
- a. Elder care (nursing homes).

- b. Congregate care serving twelve (12) or more individuals (day care and assisted living).
  - c. Public and private schools (pre-schools, K-12 schools) and before-school and after-school care serving twelve (12) or more children.
4. Facilities vital to restoring normal services, including government operations.
- a. These facilities consist of:
    - (1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers).
    - (2) Essential structures for public colleges and universities (dormitories, offices and classrooms only).
  - b. These facilities may be exempted if it is demonstrated to the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), that alternative facilities are either located outside of the 100-year floodplain or are compliant with this article and that an operations Plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.
- (b) Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this article, protection shall include one (1) of the following:
- 1. Location outside the SFHA.
  - 2. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the BFE.
- (c) Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the Town, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a one hundred (100)-year flood event.

## Article 10 – Flood Damage Prevention *(Chapter 16, Article 14)*

### Division 1 – **Title and Purpose** General Provisions and Applicability.

#### Sec. 16.10.100. Statutory authorization. *(Sec. 16.14.10)*

The legislature of the State has, in Article 20 of Title 29, C.R.S., delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council hereby adopts the following floodplain management regulations.

#### Sec. 16.10.105. Findings of fact. *(Sec. 16.14.20)*

- (a) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains, which cause an increase in flood heights and velocities. Flood losses are also created by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

#### Sec. 16.10.110. Statement of purpose. *(Sec. 16.14.30)*

It is the purpose of this article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health.
- (b) Minimize expenditure of public money for costly flood control projects.
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (d) Minimize prolonged business interruptions.
- (e) Minimize damage to critical facilities, infrastructure and other public facilities, such as water, sewer and gas mains, electric and communications stations and streets and bridges located in floodplains.
- (f) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.

- (g) Ensure that potential buyers are notified that property is located in a flood hazard area.

**Sec. 16.10.115. Methods of reducing flood losses. (Sec. 16.14.40)**

In order to accomplish its purposes, this article uses the following methods:

- (a) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities.
- (b) Requires that uses vulnerable to floods, including facilities that serve such uses, are protected against flood damage at the time of initial construction.
- (c) Controls the alteration of natural floodplains, stream channels and natural protective barriers that are involved in the accommodation of floodwaters.
- (d) Controls filling, grading, dredging and other development that may increase flood damage.
- (e) Prevents or regulates the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

**Sec. 16.9.110. Definitions. (Sec. 16.14.110)**

Unless specifically defined in the following list, words or phrases used in this Article shall be interpreted to give them the meaning they have in common usage and to give this Article its most reasonable application.

*100-year flood* means a flood having a recurrence interval that has a one-percent (1%) chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms *one-hundred-year flood* and *one-percent-chance flood* are synonymous with the term *100-year flood*. The term does not imply that the flood will necessarily happen once every one hundred (100) years.

*100-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

*500-year flood* means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual flood). The term does not imply that the flood will necessarily happen once every five hundred (500) years.

*500-year floodplain* means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred (500)-year flood.

Commented [JO1]: Mary Lynn - update to match O&G and Solar verbiage.

*Addition* means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

*Alluvial fan flooding* means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

*Area of shallow flooding* means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent (1%) chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Base Flood Elevation (BFE)* means the elevation shown on a FEMA FIRM for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent (1%) chance of equaling or exceeding that level in any given year.

*Basement* means any area of a building having its floor subgrade (below ground level) on all sides.

*Channel* means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

*Channelization* means the artificial creation, enlargement or realignment of a stream channel.

*Code of Federal Regulations (CFR)* means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into fifty (50) titles that represent broad areas subject to federal regulation.

*Community* means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, Towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

*Conditional Letter of Map Revision (CLOMR)* means FEMA's comment on a proposed project, which does not revise an effective floodplain map and which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

*Critical Facility* means a structure or related infrastructure but not the land on which it is situated that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

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

*DFIRM (Digital Flood Insurance Rate Map) database* means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA mapping specifications and guidelines outline requirements for the development and maintenance of DFIRM databases.

*Digital Flood Insurance Rate Map (DFIRM)* means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

*Elevated building* means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, *elevated building* also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

*Federal Register* means the official daily publication for rules, proposed rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

*FEMA* means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program (NFIP).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

*Flood control structure* means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Flood Insurance Rate Map (FIRM)* means an official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

*Flood Insurance Study (FIS)* means the official report provided by FEMA. The report contains the FIRM and flood profiles for studied flooding sources that can be used to determine BFEs for some areas.

*Floodplain or flood-prone area* means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

*Floodplain Administrator* means the community official designated by title to administer and enforce the floodplain management regulations.

*Floodplain Development Permit* means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this article.

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness Plans, flood control works and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building Codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and/or nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

*FreeBoard* means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

*Functionally dependent use* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district
3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior.
  - b. Directly by the Secretary of the Interior in states without approved programs.

*Letter of Map Revision (LOMR)* means FEMA's official revision of an effective FIRM or Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs or the SFHA.

*Letter of Map Revision Based on Fill (LOMR-F)* means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

*Levee* means a human-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

*Levee system* means a flood protection system that consists of a levee or levees and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes that includes working, storage, sleeping, cooking and eating or recreation or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building

access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the NFIP regulations.

*Manufactured home* means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include a recreational vehicle.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Material Safety Data Sheet (MSDS)* means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

*Mean sea level* means, for purposes of the NFIP, the North American Vertical Datum (NAVD) of 1988 or other datum to which BFEs shown on a community's FIRM are referenced.

*National Flood Insurance Program (NFIP)* means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the CFR. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*No-rise certification* means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or FBFM.

*Physical Map Revision (PMR)* means FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or Planimetric features.

*Recreational vehicle* means a vehicle that is:

1. Built on a single chassis.
2. Four hundred (400) square feet or less when measured at the largest horizontal projections.

- 3.— Designed to be self-propelled or permanently towable by a light-duty truck.
- 4.— Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

*Special Flood Hazard Area* means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year, i.e. the one hundred (100)-year floodplain.

*Start of construction* means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. *Permanent construction* does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basements, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure just prior to when the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- 1.— Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety Code specifications that have been identified by the local Code enforcement official and that are the minimum necessary conditions.
- 2.— Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Threshold Planning Quantity (TPQ)* means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency Planning requirements.

*Variance* means a grant of relief to a person from the requirement of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements, see Section 60.6 of the NFIP regulations).

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) [of the NFIP regulations] is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the NAVD of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Sec. 16.10.120. Lands to which article applies. (Sec. 16.14.120)**

This article shall apply to all special flood hazard areas (SFHAs) and areas removed from the floodplain by the issuance of a FEMA LOMR-F within the jurisdiction of the Town.

**Sec. 16.10.130. Basis for establishing SFHA. (Sec. 16.14.130)**

The SFHAs identified by FEMA in the scientific and engineering report *The FIS for the Town of Severance, Colorado*, dated May 31, 2013, with accompanying FIRMs and/or FBFMs and the revisions thereto as shown on those portions of FIRM Number 08123C1185E, Number 08123C1205E, Number 08123C1211E, Number 08123C1213E, and Number 08123C1501E, Weld County, Colorado, effective January 20, 2016, that are currently within the corporate limits of the Town are hereby adopted by reference and declared to be a part of this article. These SFHAs identified by the FIS and attendant mapping are the minimum area of applicability of this article and may be supplemented by studies designated and approved by the Town. The floodplain administrator shall keep a copy of the FIS, DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

**Sec. 16.10.140. Establishment of floodplain development permit. (Sec. 16.14.140)**

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

**Sec. 16.10.150. Compliance. (Sec. 16.14.150)**

No structure or land shall hereafter be located, altered or have its use changed within the SFHA without full compliance with the terms of this article and other applicable regulations. Nothing herein shall

prevent the Town from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and NFIP.

**Sec. 16.10.160. Abrogation and greater restrictions.** *(Sec. 16.14.160)*

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 16.10.170. Interpretation.** *(Sec. 16.14.170)*

In the interpretation and application of this article, all provisions shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Sec. 16.10.180. Warning and disclaimer of liability.** *(Sec. 16.14.180)*

- (a) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by human-made or natural causes.
- (b) This article does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this Article, or any administrative decision lawfully made thereunder.

**Sec. 16.10.190. Severability.** *(Sec. 16.14.190)*

This article and the various parts thereof are hereby declared to be severable. Should any section of this article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the article as a whole or any portion thereof, other than the section so declared to be unconstitutional or invalid.

**Division 2 – Definitions. (Division 1, Sec. 16.14.110)**

**Sec. 16.10.210. Definitions. (Sec. 16.14.110)**

All terms used in this article that are defined in the Act or in commission regulations and not otherwise defined in this section are defined as provided in the Act or in such regulations as of the effective date of this article. All other words used in this article are given their usual, customary, and accepted meaning. When not otherwise clearly indicated by the context of the matter, the following words and phrases used in this article have the following meanings: Unless specifically defined in the following list, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

- 100-year flood means a flood having a recurrence interval that has a one-percent (1%) chance of being equaled or exceeded during any given year (one-percent-annual-chance flood). The terms one-hundred-year flood and one-percent-chance flood are synonymous with the term 100-year flood. The term does not imply that the flood will necessarily happen once every one hundred (100) years.
- 100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.
- 500-year flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual flood). The term does not imply that the flood will necessarily happen once every five hundred (500) years.
- 500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred (500)-year flood.
- Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.
- Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.
- Area of shallow flooding means a designated Zone AO or AH on a community's flood insurance rate map (FIRM) with a one-percent (1%) chance or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- Base Flood Elevation (BFE) means the elevation shown on a FEMA FIRM for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE that indicates the water surface elevation resulting from a flood that has a one-percent (1%) chance of equaling or exceeding that level in any given year.

- Basement means any area of a building having its floor subgrade (below ground level) on all sides.
- Channel means the physical confine of a stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.
- Channelization means the artificial creation, enlargement or realignment of a stream channel.
- Code of Federal Regulations (CFR) means the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into fifty (50) titles that represent broad areas subject to federal regulation.
- Community means any political subdivision in the State that has authority to adopt and enforce floodplain management regulations through zoning, including but not limited to cities, Towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.
- Conditional Letter of Map Revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map and which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.
- Critical Facility means a structure or related infrastructure but not the land on which it is situated that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.
- Development means any human-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- DFIRM (Digital Flood Insurance Rate Map) database means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA mapping specifications and guidelines outline requirements for the development and maintenance of DFIRM databases.
- Digital Flood Insurance Rate Map (DFIRM) means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.
- Elevated building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

- Federal Register means the official daily publication for rules, proposed rules and notices of federal agencies and organizations, as well as executive orders and other presidential documents.
- FEMA means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program (NFIP).
- Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of water from channels and reservoir spillways.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
  3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).
- Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting or guiding flood flows along a particular waterway. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.
- Flood Insurance Rate Map (FIRM) means an official map of a community on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- Flood Insurance Study (FIS) means the official report provided by FEMA. The report contains the FIRM and flood profiles for studied flooding sources that can be used to determine BFEs for some areas.
- Floodplain or flood-prone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

**Commented [AS2]:** These definitions could conflict with other definitions in the chapter and will not affect FEMA compliance.

- Floodplain Administrator means the community official designated by title to administer and enforce the floodplain management regulations.
- Floodplain Development Permit means a permit required before construction or development begins within any special flood hazard area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this article.
- Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness Plans, flood control works and floodplain management regulations.
- Floodplain management regulations means zoning ordinances, subdivision regulations, building Codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.
- Floodproofing means any combination of structural and/or nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- Floodway (regulatory floodway) means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The statewide standard for the designated height to be used for all newly studied reaches shall be one-half (½) foot (six [6] inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.
- FreeBoard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.
- Functionally dependent use means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers and ship building and ship repair facilities but does not include long-term storage or related manufacturing facilities.
- Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register
  2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district
  3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - a. By an approved state program as determined by the Secretary of the Interior.
    - b. Directly by the Secretary of the Interior in states without approved programs.
- Letter of Map Revision (LOMR) means FEMA's official revision of an effective FIRM or Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs or the SFHA.
  - Letter of Map Revision Based on Fill (LOMR-F) means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.
  - Levee means a human-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.
  - Levee system means a flood protection system that consists of a levee or levees and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
  - Lowest floor means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes that includes working, storage, sleeping, cooking and eating or recreation or any combination thereof. This includes any floor that could be converted to such a use, such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the NFIP regulations.

Manufactured home means a structure transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term *manufactured home* does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

- Material Safety Data Sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.
- Mean sea level means, for purposes of the NFIP, the North American Vertical Datum (NAVD) of 1988 or other datum to which BFEs shown on a community's FIRM are referenced.
- National Flood Insurance Program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable federal regulations promulgated in Title 44 of the CFR. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.
- New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or FBFM.
- Physical Map Revision (PMR) means FEMA's action whereby one (1) or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations and/or Planimetric features.
- Recreational vehicle means a vehicle that is:
  1. Built on a single chassis.
  2. Four hundred (400) square feet or less when measured at the largest horizontal projections.
  3. Designed to be self-propelled or permanently towable by a light duty truck.

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

- Special Flood Hazard Area means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year, i.e. the one hundred (100)-year floodplain.
- Start of construction means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure just prior to when the damage occurred.
- Substantial improvement means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before start of construction of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
  1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety Code specifications that have been identified by the local Code enforcement official and that are the minimum necessary conditions.
  2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- Threshold Planning Quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency Planning requirements.

- Variance means a grant of relief to a person from the requirement of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements, see Section 60.6 of the NFIP regulations).
- Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) [of the NFIP regulations] is presumed to be in violation until such time as that documentation is provided.
- Water surface elevation means the height, in relation to the NAVD of 1988 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

DRAFT

### **Division 3 – Administration**

#### **Sec. 16.10.310. Designation of floodplain administrator. (Sec. 16.14.310)**

The Town is hereby appointed as the floodplain administrator to administer, implement and enforce the provisions of this article and other appropriate sections of 44 CFR (NFIP regulations) pertaining to floodplain management.

#### **Sec. 16.10.320. Duties and responsibilities of floodplain administrator. (Sec. 16.14.320)**

Duties and responsibilities of the floodplain administrator shall include but not be limited to the following:

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this article, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate.
- (b) Review, approve or deny all applications for floodplain development permits required by adoption of this article.
- (c) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (d) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required.
- (e) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this article, including proper elevation of the structure.
- (f) Where interpretation is needed as to the exact location of the boundaries of the SFHA (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation.
- (g) When BFE data has not been provided in accordance with this article, the floodplain administrator shall obtain, review and reasonably utilize any BFE data and floodway data available from a federal, state or other source, in order to administer the provisions of this article.
- (h) For waterways with BFEs for which a regulatory floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM unless it is demonstrated that the

cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half (½) foot at any point within the community.

- (i) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP regulations, a community may approve certain development in Zones A1-30, AE or AH on the community's FIRM that increases the water surface elevation of the base flood by more than one-half (½) foot, provided that the community first applies for a conditional FIRM revision through FEMA (conditional LMR), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
- (j) Prior to any alteration or relocation of a watercourse, notify, in riverine situations, adjacent communities and the state coordinating agency, which is the Colorado Water Conservation Board, and submit evidence of such notification to FEMA.
- (k) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

**Sec. 16.10.330. Permit procedures.** (*Sec. 16.14.330*)

- (a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him or her and may include but not be limited to Plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to SFHA. Additionally, the following information is required:
  - 1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.
  - 2. Elevation (in relation to mean sea level) to which any nonresidential structure shall be floodproofed.
  - 3. A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Paragraph **16.10.420(2)** of this Article.
  - 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
  - 5. A record of all such information.
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
  - 1. The danger to life and property due to flooding or erosion damage.
  - 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

3. The danger that materials may be swept onto other lands to the injury of others.
4. The compatibility of the proposed use with existing and anticipated development.
5. The safety of access to the property in times of flood for ordinary and emergency vehicles.
6. The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems.
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
8. The necessity to the facility of a waterfront location, where applicable.
9. The availability of alternative locations not subject to flooding or erosion damage for the proposed use.
10. The relationship of the proposed use to the comprehensive Plan for that area.

**Sec. 16.10.340. Variance procedures.** (*Sec. 16.14.340*)

- (a) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.
- (c) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.
- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in **Section 16.10.130** of this Article have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted above and the intent of this article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Article as stated in **Section 16.10.130**.

- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (j) Prerequisites for granting variances:
  - 1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - 2. Variances shall only be issued upon:
    - a. A good and sufficient cause.
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
    - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, will not create nuisances and will not cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
  - 3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the BFE and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - 1. The criteria outlined in **Section 16.10.130** are met.
  - 2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### **Division 4 – Provisions for Flood Hazard Reduction.**

##### **Sec. 16.10.410. General standards. (Sec. 16.14.410)**

In all SFHAs, the following provisions are required for all new construction and substantial improvements:

- (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (d) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (e) All manufactured homes shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (f) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.
- (h) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**Sec. 16.10.420. Specific standards.** *(Sec. 16.14.420)*

In all SFHAs where BFE data has been provided as set forth in **Section 16.10.320**, the following provisions are required:

- (a) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the BFE. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (b) Nonresidential construction.

1. With the exception of critical facilities, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated to one (1) foot above the BFE or, together with attendant utility and sanitary facilities, be designed so that at one (1) foot above the BFE, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
2. A registered Colorado professional engineer or architect shall develop and/or review structural design, specifications and Plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the floodplain administrator.

(c) Enclosures.

1. New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
2. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade.

Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(d) Manufactured homes.

1. All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are elevated to one (1) foot above the BFE and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above subparagraph shall be elevated so that either:
  - a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) are one (1) foot above the BFE.
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (e) Recreational vehicles. All recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall either:
  1. Be on the site for fewer than one hundred eighty (180) consecutive days.
  2. Be fully licensed and ready for highway use.
  3. Meet the permit requirements of **Section 16.10.330** of this Article and the elevation and anchoring requirements for "manufactured homes" in Paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (f) Prior approved activities. Any activity for which a floodplain development permit was issued by the Town or a CLOMR was issued by FEMA may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this article if it meets such standards.

**Sec. 16.10.430. Standards for areas of shallow flooding (AO/AH zones).** *(Sec. 16.14.430)*

Located within the SFHA established in **Section 16.10.130** of this Article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (a) Residential construction. All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including

basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the floodplain administrator.

- (b) Nonresidential construction. With the exception of critical facilities, all new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the community's FIRM (at least three [3] feet if no depth number is specified) or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

**Sec. 16.10.440. Floodways.** (Sec. 16.14.440)

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State has adopted floodway standards that are more stringent than the FEMA minimum standard (see definition of floodway, [Section 16.10.110-210](#) of this article). Located within SFHA established in [Section 16.10.130](#) of this article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a no-rise certification) in flood levels within the community during the occurrence of the base flood discharge.
- (b) All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a CLOMR and floodway revision through FEMA.

**Sec. 16.10.450. Alteration of watercourse. (Sec. 16.14.450)**

For all proposed developments that alter a watercourse within a SFHA, the following standards apply:

- (a) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (b) Channelization and flow diversion projects shall evaluate the residual one hundred (100)-year floodplain.
- (c) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and comply with all applicable federal, state and local floodplain rules, regulations and ordinances.
- (d) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (e) All activities within the regulatory floodplain shall meet all applicable federal, state and Town floodplain requirements and regulations.
- (f) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions in the floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with **Section 16.10.440**.
- (g) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

**Sec. 16.10.460. Properties removed from floodplain by fill. (Sec. 16.14.460)**

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA (LOMR-F) unless such new structure or addition complies with the following:

- (a) Residential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the BFE that existed prior to the placement of fill.

- (b) Nonresidential construction. The lowest floor (including basement), electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities (including ductwork) must be elevated to one (1) foot above the BFE that existed prior to the placement of fill or, together with attendant utility and sanitary facilities, be designed so that the structure or addition is watertight to at least one (1) foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**Sec. 16.10.470. Standards for subdivision proposals.** *(Sec. 16.14.470)*

- (a) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- (b) All proposals for the development of subdivisions that include the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements.
- (c) BFE data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions that is greater than fifty (50) lots or five (5) acres, whichever is lesser.
- (d) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals that include the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**Sec. 16.10.480. Standards for critical facilities.** *(Sec. 16.14.480)*

A critical facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- (a) Classification of critical facilities. Critical Facilities are classified under the following categories:
  - (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services. It is the responsibility of the Town to identify and confirm that specific structures in their community meet the following criteria:

1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility Plant facilities and transportation lifelines. These facilities consist of:
  - a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and emergency operation centers).
  - b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures but excluding clinics, doctors' offices and non-urgent care medical structures that do not provide these functions).
  - c. Designated emergency shelters.
  - d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems but excluding towers, poles, lines, cables and conduits).
  - e. Public utility Plant facilities for generation and distribution (hubs, treatment Plants, substations and pumping stations for water, power and gas but excluding towers, poles, power lines, buried pipelines, transmission lines, distribution lines and service lines).
  - f. Air transportation lifelines (airports [municipal and larger], helicopter pads and structures serving emergency functions and associated infrastructure [aviation control towers, air traffic-control centers and emergency equipment aircraft hangars]).
  - g. Specific exemptions to this category include wastewater treatment Plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power generating Plants and related appurtenances.

Public utility Plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the one hundred (100)-year floodplain or are compliant with the provisions of this article and that an operations Plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.

2. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - a. These facilities may include:
    - (1) Chemical and pharmaceutical Plants (chemical Plant, pharmaceutical manufacturing).

- (2) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - (3) Refineries.
  - (4) Hazardous waste storage and disposal sites.
  - (5) Above ground gasoline or propane storage or sales centers.
- b. Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a MSDS on file for any chemicals stored or used in the work place and the chemicals are stored in quantities equal to or greater than the TPQ for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is either five hundred (500) pounds or the TPQ listed (whichever is lower) for the three hundred fifty-six (356) chemicals listed under 40 CFR § 302 (2010), also known as extremely hazardous substances or ten thousand (10,000) pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Public Health and Environment. OSHA requirements for MSDS can be found in 29 CFR § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 CFR § 302 (2010), and OSHA regulation "Occupational Safety and Health Standards," 29 CFR § 1910 (2010), are incorporated herein by reference and include the regulations in existence at the time of the promulgation this article but exclude later amendments to or editions of the regulations.
- c. Specific exemptions to this category include:
- (1) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
  - (2) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
  - (3) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this article.

3. At-risk population facilities include medical care, congregate care and schools. These facilities consist of:
- a. Elder care (nursing homes).

- b. Congregate care serving twelve (12) or more individuals (day care and assisted living).
  - c. Public and private schools (pre-schools, K-12 schools) and before-school and after-school care serving twelve (12) or more children.
4. Facilities vital to restoring normal services, including government operations.
- a. These facilities consist of:
    - (1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers).
    - (2) Essential structures for public colleges and universities (dormitories, offices and classrooms only).
  - b. These facilities may be exempted if it is demonstrated to the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), that alternative facilities are either located outside of the 100-year floodplain or are compliant with this article and that an operations Plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Town on an as-needed basis upon request.
- (b) Protection for critical facilities. All new and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this article, protection shall include one (1) of the following:
- 1. Location outside the SFHA.
  - 2. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two (2) feet above the BFE.
- (c) Ingress and egress for new critical facilities. New critical facilities shall, when practicable as determined by the Town, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a one hundred (100)-year flood event.